

**SCRep. 529-98      Judiciary on H.B. No. 2774**

The purpose of this bill is to require that any person filing a civil action under or pursuant to Chapter 92F, Hawaii Revised Statutes, (HRS) notify the Office of Information Practices (OIP) in writing at the time of filing.

OIP testified in support of the bill.

Your Committee finds that under the Uniform Information Practices Act OIP may intervene in lawsuits where the provisions of Chapter 92F, HRS, are called into question. However, because plaintiffs do not notify OIP with these complaints, OIP rarely has the opportunity to intervene in these matters.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2774 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor and Yoshinaga.

**SCRep. 530-98      Judiciary on H.B. No. 2459**

The purpose of this measure is to statutorily authorize the issuance of anticipatory search warrants.

Testimony supporting the intent of this measure was received from representatives of the Office of the Attorney General, the Office of the Public Defender, the Honolulu Police Department, Narcotics/Vice Division, the Hawaii Police Department, and the Department of the Prosecuting Attorney.

Your Committee recognizes the tremendous importance and utility of anticipatory search warrants in drug investigations, particularly when "dealing with the furtive and transitory activities of persons who traffic in narcotics." (2 W. La Fave, Search and Seizure, §3.7(c), at 365.) Your Committee finds that the Hawaii Supreme Court has held that anticipatory search warrants are impermissible under section 803-31, Hawaii Revised Statutes. (State v. Scott, No. 18170, slip op. at 14 (January 8, 1998).) Your Committee further finds, based on the Court's opinion, that it is necessary to amend section 803-31, Hawaii Revised Statutes, to provide a legal basis for anticipatory search warrants.

Your Committee finds that an anticipatory search warrant is intended to be an order in writing made by a judge or other magistrate, directed to an officer of justice, commanding the officer to search for certain articles anticipated to be, at the time the warrant is executed, in the possession of one who is charged: with having obtained them illegally or keeping them illegally; or with the intent of using them as the means of committing a certain offense. Accordingly, it is the intention of your Committee that anticipatory search warrants shall:

- (1) Be issued by an authorized judge or magistrate, based upon probable cause supported by oath or affirmation;
- (2) Be based upon a clear showing, supported by oath or affirmation, of law enforcement's need to have the anticipatory search warrant issued before the occurrence of the event generating the probable cause;
- (3) Describe particularly the place to be searched and the things to be seized;
- (4) Authorize a search only upon the occurrence of the event generating the probable cause;
- (5) Authorize a search only within the probable life of the probable cause; and
- (6) Be executed before the probable cause in fact expires.

After careful consideration, however, your Committee believes that authorizing the use of anticipatory search warrants may be done simply and effectively. Therefore, your Committee has amended this measure by replacing its language with a requirement that the search warrant may command the officer to search for certain articles which are anticipated to be in the person's possession.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2459, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki and Menor.

**SCRep. 531-98      Judiciary on H.B. No. 2438**

The purpose of this measure, as received, is to reduce from three to two the number of convictions for a driving under the influence of liquor or drugs offense needed to constitute the offense of habitually driving under the influence of liquor or drugs.

Your Committee received testimony in support of this measure from representatives of the Department of the Prosecuting Attorney, City and County of Honolulu, the Governor's Highway Safety Council Impaired Driving Task Force, the Honolulu Police Department, and Mothers Against Drunk Driving. Your Committee received testimony in opposition to this measure from representatives of the Office of the Public Defender and the Hawaii Restaurant Association.

Your Committee finds that driving under the influence of intoxicating liquor or drugs remains a serious problem. Your Committee believes that habitual offenders pose a real threat to public safety and order, and thus should have stricter penalties. Your Committee notes that only upon the fourth conviction in a ten-year period is the offense treated as a felony, based upon the premise that recidivist penalties, including mandatory imprisonment for the third offense were insufficient to deter the offender. Your Committee finds that elevating to a felony offense based upon recidivism, prior to the imposition of a mandatory jail term, should be taken only with the greatest deliberation and demonstrated necessity.

After careful deliberation, your Committee has amended this measure by:

- (1) Removing the provision elevating a third offense for driving under the influence of liquor or drugs within five years of two prior convictions to the offense of habitually driving under the influence of liquor or drugs;
- (2) Increasing the penalty for a third offense of driving under the influence of liquor or drugs within five years of two prior convictions to include a mandatory jail term of not less than 30 days; and
- (3) Making a third offense of driving under the influence of liquor or drugs within five years of two prior convictions of driving under the influence of liquor or drugs a misdemeanor.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2438, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2438, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki and Menor.

**SCRep. 532-98      Judiciary on H.B. No. 2967**

The purpose of this bill is to designate surfing as the official individual sport of the State.

Testimony in support of the measure was submitted by the Office of Hawaiian Affairs, the Waikiki Improvement Association, the International Surfing Association, and members of the public.

Your Committee finds that surfing is of significant historical and cultural importance to the State. Records of Hawaiian oral tradition dating as far back as the 15th century describe surfing as an integral part of ancient Hawaiian culture.

Although surfing is now an international sport, as an individual sport and recreational activity, surfing is still synonymous with Hawaii and its people.

Your Committee believes that the State will benefit by bestowing formal recognition on surfing because of its deep cultural roots in our society.

Your Committee has amended this bill by:

- (1) Adding additional legislative findings with respect to International Olympic Committee recognition of surfing to the purpose clause of this bill; and
- (2) Deleting language to the effect that this bill will be effective until the Legislature provides otherwise.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2967, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2967, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki and Menor.

**SCRep. 533-98      Finance on H.B. No. 2711**

The purpose of this bill is to streamline Judiciary operations by:

- (1) Enabling the Judiciary to enter into financing agreements under Chapter 37D, Hawaii Revised Statutes; and
- (2) Requiring that amounts due on unpaid financing agreements shall be included in the Judiciary's budget.

The Judiciary submitted testimony in support of this bill. The Department of Budget and Finance submitted comments on this bill.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2711, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2711, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 534-98      Health on H.R. No. 7**

This resolution calls for the Education Department, in cooperation with the Health Department, to establish a sun protection policy for elementary school students, to study the feasibility of requiring these students to wear protective sun screen headgear, to review Australia's Sunsmart program and similar efforts in other countries and to report its findings before the Legislature's 1999 Regular Session. The Education Department is to coordinate its efforts with the Hawaii Skin Cancer Coalition, the Cancer Research Center of Hawaii, the Departments of Parks and Recreation of all counties, and all other appropriate public and private agencies.

Your Committee received testimony from the Hawaii Federation of Physicians and Dentists, the Hawaii Dermatological Association and the Hawaii Medical Association in support of this resolution. The Department of Education testified against this measure.

The Chair had personal experience with skin cancer and felt such a program was needed to protect Hawaii's children. Because of Hawaii's tropical climate and outdoor lifestyle, our State shares the dubious distinction with Australia of having the highest skin cancer and melanoma rates in the world. Moreover the incidence of melanoma in Hawaii has increased dramatically because of our outdoors recreational and occupational sun exposure.

Australia's Sunsmart program requires school children to wear hats and protective clothing. Many schools there have decreased the number of outdoor school activities and have adopted policies for the regular use of sunscreen.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 7 and recommends that it be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Kawakami, Saiki, McDermott and Ward.

**SCRep. 535-98 Health on H.C.R. No. 14**

This resolution requests the Auditor to study the social and financial impacts of requiring health insurers in Hawaii to provide coverage for post-mastectomy breast reconstructive surgery for all stages of reconstruction. This study is to include estimates of the number of mastectomies and reconstructive surgery performed annually over the past ten years, estimates of the number of multiple surgical procedures performed on those who sought reconstructive surgery, costs and side effects for the initial and each subsequent surgery and, estimates of the cost-effectiveness and efficacy of each intervention.

Your Committee received testimony from the Commission on the Status of Women and Hawaii Medical Services Association in support of this resolution. In addition three private citizens testified in strong support of the proposed study.

It is prudent and fair to consider breast reconstructive surgery as a covered part of breast cancer treatment, just as reconstruction is covered for a variety of other illnesses and injuries. Fear of the disfiguring nature of mastectomy inhibits many women from pursuing this alternative, driving up treatment costs and reducing quality of life. The availability of post-mastectomy reconstructive surgery will restore a significant degree of emotional and psychological wellness to breast cancer victims and encourage more women to participate in breast cancer screening programs. Thirteen states have adopted legislation requiring breast reconstruction insurance after a mastectomy.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 14 and recommends that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kawakami, Saiki, McDermott and Ward.

**SCRep. 536-98 Human Services and Housing on H.C.R. No. 24**

The purpose of this concurrent resolution is to urge the U.S. Congress, the President of the United States, and the Secretary of Health and Human Services, to support Hawaii's congressional delegation's efforts to increase Hawaii's Federal Medical Assistance Percentage (FMAP).

The Department of Human Services, the State Planning Council on Developmental Disabilities, the Healthcare Association of Hawaii, the Welfare and Employment Rights Coalition (WERC), the Democratic Party of Hawaii and the Hawaii State Primary Care Association submitted testimony in support of this measure.

Your Committee finds that in view of Hawaii's fiscal situation, increasing the FMAP is a priority, as the current formula used to compute FMAP does not take into consideration Hawaii's high cost of living. This directly affects such programs such as Medicaid, and if successful, should add approximately \$7 million per year for each percentage point increase.

Your Committee fully supports the congressional delegation's efforts and has amended this measure by:

- (1) Changing the title to read: "URGING THE U.S. CONGRESS, THE PRESIDENT OF THE UNITED STATES, AND THE SECRETARY OF HEALTH AND HUMAN SERVICES TO SUPPORT THE HAWAII CONGRESSIONAL DELEGATION'S EFFORT TO AMEND THE SOCIAL SECURITY ACT TO INCREASE HAWAII'S FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP)"; and
- (2) Making a technical and nonsubstantive amendment for the purpose of clarification.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 24, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 24, H.D. 1.

Signed by all members of the Committee except Representatives Kahikina, Santiago and Stegmaier.

**SCRep. 537-98 Human Services and Housing on H.C.R. No. 40**

The purpose of this measure is to request an audit of the Child Protective Services (CPS) by the Legislative Auditor.

The Democratic Party of Hawaii and six individuals submitted testimony in support of this measure. Parents and Children Together (PACT) and the Hawaii Government Employees Association submitted comments on this measure. The Department of Human Services submitted testimony opposing this measure.

As the Child Protective Services system has been highlighted recently in the media, your Committee finds that an audit is necessary to provide a starting point to work towards improving the system. Your Committee further finds that this objective assessment should include the use of funds and therefore has amended this measure by adding a financial component in the title and including in the audit how any fiscal funds are being utilized within the program.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 40, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as H.C.R. No. 40, H.D. 1.

Signed by all members of the Committee except Representatives Kahikina, Santiago and Stegmaier.

**SCRep. 538-98 Human Services and Housing on H.C.R. No. 39**

The purpose of this resolution is to urge the Department of Human Services to utilize people significant to the child to assist in the picking up of the child for custody, in order to minimize trauma to the child.

The Democratic Party of Hawaii and one individual testified in support of this measure. The Department of Human Services testified in support of the intent of this measure.

Your Committee finds that this legislation should commit a determined effort to alleviate a child's mental and emotional trauma during the removal process, and utilizing an individual that is significant to the child can accomplish this goal.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 39 and recommends its adoption.

Signed by all members of the Committee except Representatives Kahikina, Santiago and Stegmaier.

**SCRep. 539-98 Human Services and Housing on H.C.R. No. 48**

The purpose of this concurrent resolution is to provide both a setting and an opportunity for young delegates to set priorities for the twenty-first century on issues of concern to children and youth by inviting the Children's Millennium Conference (Conference) to Honolulu in October, 1999.

The Hawaii Youth Services Network, the Hawaii Community Services Council, the Center for Better Communities, the Democratic Party of Hawaii, Helping Hands of Hawaii, and Oceanic Cable submitted testimony in support of this measure. The Department of Business, Economic Development, and Tourism submitted comments.

Honolulu has the opportunity to host the Children's Millennium Conference in late 1999 and serve as the convening site for a group of 1,000 youth leaders, ranging in age from twelve to seventeen, and representing over one hundred twenty countries.

Your Committee finds that Hawaii is an appropriate venue for a conference of this stature. The benefits to the State will provide a solid platform for building a worldwide reputation as a community who values youth, their involvement in decision-making, and their leadership in moving towards sustainability.

Your Committee has amended this measure by:

- (1) Rearranging agenda items to take up broader concerns first;
- (2) Naming the United Nations Secretariat, the Director of Business, Economic Development, and Tourism, the Executive Director of the Hawaii Visitors and Convention Bureau, and the Executive Director of Oceanic Cable to receive copies of the Concurrent Resolution; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 48, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 48, H.D. 1.

Signed by all members of the Committee except Representatives Kahikina, Santiago and Stegmaier.

**SCRep. 540-98 Finance on H.B. No. 2859**

The purpose of this bill is to provide emergency funding to develop outpatient community mental health services necessary to facilitate discharge planning and discharge of patients from Hawaii State Hospital (HSH) and to provide alternatives to hospitalization at HSH.

Your Committee has received a message from the Governor, dated February 11, 1998:

- (1) Stating that additional funding is needed by March 1, 1998, to prepare a clear remedial plan addressing deficiencies in community services as requested by the United States Department of Justice; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure timely implementation of services.

The Department of Health testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2859, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 541-98 Finance on H.B. No. 2230**

The purpose of this bill is to acknowledge the expanded course offerings of forestry and natural resource management at the University of Hawaii at Hilo (UH-Hilo) by renaming UH-Hilo's "Tropical Agriculture Program" the "Agriculture, Forestry, and Natural Resource Management Program".

UH-Hilo testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2230, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 542-98 Finance on H.B. No. 2535**

The purpose of this bill is to relieve severe overcrowding in the State's correctional facilities by allowing the Governor, with the assistance of the Director of Public Safety, to negotiate for the development of:

- (1) Private in-state correctional facilities;
- (2) Public in-state, turnkey correctional facilities;
- (3) Public out-of-state correctional facilities; and
- (4) Private out-of-state correctional facilities.

Your Committee received testimony in support of the bill from the Department of Public Safety and the Department of the Prosecuting Attorney of the City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2535, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 543-98 Finance on H.B. No. 2563**

The purpose of this bill is to provide additional guidelines to ensure the implementation of school-based budgeting beginning with fiscal biennium 1999-2001 by:

- (1) Requiring the Governor to submit a Department of Education (DOE) budget that names each school as the lowest program level in the State program structure, except for the district and State office programs;
- (2) Establishing the Education Contingent Fund for adjusting to unanticipated changes in individual school budgets as a result of personnel movements among schools; and
- (3) Giving DOE flexibility to transfer general fund appropriations among schools comprising the lowest program level.

Your Committee received testimony in support of this bill from the Department of Budget and Finance, the Hawaii Business Roundtable, and two individuals. The DOE and the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO submitted testimony in support of the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2563 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 544-98 Finance on H.B. No. 2834**

The purpose of this bill is to transfer security functions related to public school and public library facilities from the Department of Public Safety to the Department of Education.

The Department of Education submitted testimony in support of the bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2834, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 545-98 Finance on H.B. No. 2870**

The purpose of this bill is to calculate the employer's portion of concurrent temporary total disability benefits based on actual earnings instead of full-time wages.

The Department of Labor and Industrial Relations and the City and County of Honolulu testified in support of this measure. The Hawaii State AFL-CIO opposed this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2870 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 546-98 Finance on H.B. No. 3024**

The purpose of this bill is to ensure that Department of Human Services (DHS) programs continue to remain in compliance with the federal Personal Responsibility and Work Opportunity and Reconciliation Act of 1996 by deleting the sunset date of June 30, 1998.

DHS commented on this Administration bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3024 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 547-98 Finance on H.B. No. 3400**

The purpose of this bill is to authorize the addition of 1,500 medium security beds at Kulani Correctional Facility pursuant to the Hawaii state prison site selection study and master plan, as an alternative to developing a new prison at a new site on the Big Island.

The Department of Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu, and Government Efficiency Teams, Inc., testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3400, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

**SCRep. 548-98 Finance on H.B. No. 2787**

The purpose of this bill is to redefine the boundaries of the Kalaeloa Community Development District.

The Department of Business, Economic Development, and Tourism, and the Department of Transportation, testified in support of this bill. The Representative from the 42nd House District commented on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2787, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Kahikina.  
(Representative Fox voted no.)

**SCRep. 549-98 Finance on H.B. No. 2761**

The purpose of this bill is to improve the manner in which employees hired by the State on or after July 1, 1998, are paid.

Specifically, this measure would:

- (1) Require that paychecks be made by bank assignment to the employee's designated financial institution, instead of by check, unless otherwise directed by the Comptroller; and
- (2) Provide that new employees are paid on an after-the-fact basis.

The Department of Accounting and General Services and the Department of Public Safety testified in support of this bill. The Hawaii State Teachers Association testified in support of the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2761 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 550-98 Finance on H.B. No. 2842**

The purpose of this bill is to give the Director of Health (Director) the flexibility to administer litter control efforts by authorizing, rather than requiring, the Director to carry out litter control responsibilities.

The Department of Health testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2842, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

**SCRep. 551-98 Finance on H.B. No. 2857**

The purpose of this bill is to repeal the Chronic Renal Disease Assistance Program, which provides financial assistance for expenses incurred for the care and treatment of individuals afflicted with chronic renal disease.

The Department of Health submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2857 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

**SCRep. 552-98 Finance on H.B. No. 3313**

The purpose of this bill is to:

- (1) Allow police officers to request a test for life threatening or debilitating diseases if an officer suspects having contracted such disease in the line of duty; and
- (2) Require a similar test of the potential disease carrier.

The Department of Human Resources Development, the Honolulu Police Department, the State of Hawaii Organization of Police Officers, and the Filipino Coalition for Solidarity, Inc., testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3313, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 553-98 Finance on H.B. No. 3225**

The purpose of this bill is to ensure that injured workers are apprised of vocational rehabilitation benefits by:

- (1) Requiring employers to inform injured employees, in writing, of their rights to vocational rehabilitation services;
- (2) Authorizing the Director of Labor and Industrial Relations to penalize an employer for failure to inform; and
- (3) Ensuring that a certified provider of rehabilitation services is selected on a timely basis following the injury.

The Department of Labor and Industrial Relations and the Hawaii State Teachers Association testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3225, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 554-98 Finance on H.B. No. 2551**

The purpose of this bill is to establish a two-year task force to conduct a comprehensive review of the scope, implementation, efficiency, and effectiveness of Title 7, Hawaii Revised Statutes, which relates to public officers and employees.

The Department of Human Resources Development, the Office of Collective Bargaining, and the Hawaii State Teachers Association testified in support of this measure. HGEA/AFSCME Local 152 and the United Public Workers AFSCME Local 646 AFL-CIO opposed this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2551, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 555-98 Finance on H.B. No. 2875**

The purpose of this bill is to expand the uses of the Special Land and Development Fund subject to authorization by the Legislature.

The Board of Land and Natural Resources testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2875, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 556-98 Finance on H.B. No. 2844**

The purpose of this bill is to extend to July 1, 2002, the sunset provision of the current mental health and alcohol and drug abuse treatment insurance benefits.

The Department of Health, the Department of Commerce and Consumer Affairs, the Department of Public Safety, the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, the Hawaii State Teachers Association, the Hawaii Medical Service Association, the Hawaii Psychological Association, the Hawaii Psychiatric Medical Association, the National Association of Social Workers, Kaiser Permanente, and the Oahu Alliance for the Mentally Ill testified in support of this measure. The Hawaii Substance Abuse Coalition testified in support of the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2844, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 557-98 Finance on H.B. No. 3026**

The purpose of this bill is to repeal section 346-64, Hawaii Revised Statutes (HRS), which is presently unnecessary as it deals with personal care services which are no longer funded from the home and community-based Medicaid waiver programs under Chapter 346D, HRS.

The Department of Human Services testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3026, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 558-98 Finance on H.B. No. 2376**

The purpose of this bill is to authorize the Department of Transportation (DOT), in cooperation with the Department of Business, Economic Development, and Tourism (DBEDT), and the State Procurement Office to implement a people mover system between Waikiki and other areas of Honolulu at no capital and operating costs to the State or City and County of Honolulu.

The Convention Center Authority testified in support of this bill. The DOT submitted testimony in support of the intent of this bill. DBEDT and the Board of Land and Natural Resources commented on this measure. The League of Women Voters of Honolulu, E Noa Corporation, Charley's Taxi, and members of the public testified in opposition to the bill.



As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2376, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Kahikina.  
(Representative Fox voted no.)

**SCRep. 559-98 Finance on H.B. No. 3000**

The purpose of this bill is to offer medical benefits to part-time, temporary, and seasonal or casual employees at no cost to the employer.

The Department of Budget and Finance, the Hawaii Public Employees Health Fund, the Hawaii State Teachers Association, and the Hawaii Medical Association testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3000 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 560-98 Finance on H.B. No. 3524**

The purpose of this bill is to provide low income housing credit to insurance companies.

The Department of Taxation, the Housing Finance and Development Corporation, the Department of Housing and Community Development of the City and County of Hawaii, the Transamerica Realty Services, the M.A. Mortenson, Day Real Estate Company, the Hawaii Affordable Properties, Inc., the Coastal Rim Properties, Inc., the Maui Economic Concerns of the Community, Inc., the Community 2000, and members of the public testified in support of this measure. The Department of Commerce and Consumer Affairs, the Tax Foundation of Hawaii, and the Affordable Housing and Homeless Alliance commented on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3524 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 561-98 Finance on H.B. No. 2803**

The purpose of this bill is to ensure that the annual salary increase assumption for actuarial valuations of the Employees' Retirement System (ERS) is consistent with the State's current financial plan.

This bill decreases the annual salary increase assumption from four percent to three percent for the years ending June 30, 1997, to June 30, 2000.

The Department of Budget and Finance and the Hawaii State Teachers Association testified in support of this measure. The ERS commented on the measure. An individual testified in opposition of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2803 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 562-98 Finance on H.B. No. 3446**

The purpose of this bill is to authorize the issuance of \$20,000,000 of special purposes revenue bonds to assist Kupuna Park, Inc., in the planning, design, construction, and operation of a senior housing community.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3446 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 563-98 Finance on H.B. No. 2561**

The purpose of this bill is to create clear accountability for public education by proposing to amend the State Constitution to change the Board of Education from an elected body to one appointed by the Governor.

The State Attorney General and the Hawaii Business Roundtable testified in support of this measure. Two individuals who are members of the Economic Revitalization Task Force testified that the task force agrees with the present draft of the bill. The Hawaii Government Employees Association testified in support of the concept of the bill. The Board of Education and the Hawaii State Teachers Association testified in opposition of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2561, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.  
(Representatives Marumoto, Meyer and Ward voted no.)

**SCRep. 564-98 Finance on H.B. No. 2562**

The purpose of this bill is to create clear accountability for public education by amending state statutes to change the Board of Education from an elected body to one appointed by the Governor.

The State Attorney General and the Hawaii Government Employees Association testified in support of this measure. Two individuals who are members of the Economic Revitalization Task Force testified that the Task Force is in agreement with the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2562, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.  
(Representatives Marumoto, Meyer and Ward voted no.)

**SCRep. 565-98 Finance on H.B. No. 2679**

The purpose of this bill is to enhance Hawaii's position as a travel destination by establishing the Hawaii Underwater Attractions Program.

Specifically, this measure would:

- (1) Acquire and deploy derelict vessels and other suitable materials to create an underwater diving attraction;
- (2) Establish a 13-member Hawaii Underwater Attractions Advisory Committee to provide advice about suitable materials and the designation of underwater sites;
- (3) Establish an Underwater Attractions Special Fund to acquire, convert, transport, and sink derelict vessels, and pay operational costs for the Advisory Committee; and
- (4) Establish guidelines by which the Department of Business, Economic Development, and Tourism (DBEDT) may take custody of a derelict vessel.

The DBEDT, the Department of Transportation, Marine Commercial Boaters and Ocean Affiliated Transportation, the BOJAC Aquatic Center, and a member of the public testified in support of this measure. The Department of Land and Natural Resources testified in support of the intent of this measure. The Department of Budget and Finance testified in opposition to the bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2679, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 566-98 Finance on H.B. No. 2988**

The purpose of this bill is to provide a direct link between the people who benefit from the Milk Control Program and the financial support of the program.

Specifically, this bill:

- (1) Establishes a Milk Control Special Fund (Fund); and
- (2) Requires that all moneys received as application fees and licenses under Chapter 157, Hawaii Revised Statutes, and any other moneys made available, be deposited into this Fund.

The Department of Agriculture submitted testimony in support of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2988 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 567-98 Finance on H.B. No. 2969**

The purpose of this bill is to encourage energy conservation by:

- (1) Extending the energy conservation income tax credit for the installation of wind energy systems, solar energy systems, heat pumps, and ice storage systems from January 1, 1999, to July 1, 2003; and
- (2) Establishing a four-year task force to study alternative methods to support increased energy efficiency and sustainability.

The Hawaiian Electric Company, the Hawaii Electric Light Company, the Maui Electric Company, the Sierra Club Hawaii Chapter, the PowerLight Corporation, the Hawaii Renewable Energy Alliance, the Hawaii Solar Energy Association, Inter-Island Solar Supply, Hawaiian Fresh Egg Farm, Kahua Ranch Ltd., the Building Industry Association of Hawaii, Associated Builders and Contractors, and members of the public testified in support of this measure. The Environmental Center of the University of Hawaii at Manoa, the Tax Foundation of Hawaii, and the Department of Taxation commented on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2969, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 568-98 Finance on H.B. No. 2872**

The purpose of this bill is to make fire inspections more effective by:

- (1) Requiring the county fire chiefs to make inspections every two years;
- (2) Allowing the fire chiefs to inspect more often if they deem it practicable or necessary; and
- (3) Deleting the six-month inspection requirement for buildings in congested, high risk areas.

The City and County of Honolulu Fire Department submitted testimony in support of this bill. The Department of Education submitted testimony in support of the intent of this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2872, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 569-98 Finance on H.B. No. 2835**

The purpose of this bill is to:

- (1) Permit the Department of Education (DOE) to rehire retired teachers through the 2000-2001 school year; and
- (2) Reduce the rehired teacher's salary from 100 percent to 70 percent of their salary immediately prior to retirement.

The Hawaii State Teachers Association testified in support of this measure. DOE commented on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2835, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 570-98 Finance on H.B. No. 2793**

The purpose of this bill is to conform sections 201G-127 and 201G-129, Hawaii Revised Statutes, to the intent of Act 299, Session Laws of Hawaii 1997, which is to reduce the Housing Finance and Development Corporation's (HFDC) buy back period from ten to three years.

HFDC submitted testimony in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2793 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 571-98 Finance on H.B. No. 2801**

The purpose of this bill is to exempt the Villages of Kapolei from the Housing Finance and Development Corporation's (HFDC) requirement to set aside ten percent of self-help housing for all single family projects of fifty or more units.

This bill amends the Chapter created by Act 350, Session Laws of Hawaii 1997, which will not take effect until July 1, 1998.

The HFDC testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2801, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 572-98      Judiciary on H.B. No. 2899**

The purpose of this bill is to allow state boards to meet in executive session to discuss sensitive and confidential matters relating to the solicitation and acceptance of private donations for the support of State programs.

The University of Hawaii testified in support of the bill.

Your Committee finds that with the decline in general funds, it is essential that private donations to publicly-funded programs be encouraged. Persons who may potentially donate large sums often times wish to keep their donations confidential. Without confidentiality, these potential donations may be jeopardized.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2899 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 573-98      Judiciary on H.B. No. 2837**

The purpose of this bill is to allow the Superintendent of Education to appoint a designee to:

- (1) Determine a student's exclusion from school for having found in the student's possession, a dangerous weapon, switchblade knife, intoxicating liquor, or illicit drugs while the student is attending school; and
- (2) Ensure that substitute educational activities or other assistance is provided for a student who is excluded from attending school.

The Department of Education and the Hawaii State PTSA testified in support of the bill. The Hawaii State Teachers Association testified in support of the intent of the bill.

Your Committee believes that this bill further empowers principals by giving them the flexibility to discipline students efficiently when students are found to be in possession of dangerous weapons, switchblade knives, intoxicating liquor, or illicit drugs while attending school. Furthermore, this bill helps to address incidents of substance abuse and violence on school campuses.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2837, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 574-98      Judiciary on H.B. No. 2361**

The purpose of this bill is to amend motor vehicle towing fees as follows:

- (1) Increasing the caps of the following existing fees:
  - (A) From \$40 to \$50 for a tow;
  - (B) From \$50 to \$63 for a tow using a dolly;
  - (C) From \$4 to \$5 per mile towed;
  - (D) From \$10 to \$13 per day for storage for the first seven days;
  - (E) From \$5 to \$6 per day for storage after the vehicle has been stored for at least seven days;
  - (F) From \$10 to \$13 for an overtime charge when the tow occurs between 6 p.m. and 6 a.m.; and
  - (G) From \$40 to \$50 for an "unhooking" fee when the owner appears on the scene before the vehicle has been moved by the tow truck;

and

- (2) Allowing a towing surcharge of \$25 for above or below ground hookups in a multilevel facility.

The Hawaii State Towing Association supported this measure. The Department of Commerce and Consumer Affairs commented on this measure, suggesting that if fees are to be raised, consumers should be permitted to use other forms of payment such as credit cards.

Your Committee finds that the increases proposed in this measure would make Hawaii towing fees comparable to fees charged in other jurisdictions. The last time towing fees were revised in Hawaii was in 1991. During the past seven

years, the towing industry has suffered as allowable fees remained fixed and labor, equipment, and other business expenses have increased.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2361, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

(Representative Thielen voted no.)

**SCRep. 575-98 Ocean Recreation and Marine Resources on H.B. No. 612**

The purpose of this bill is to provide that beginning July 1, 1997, the number of aquarium fish permits issued by the Department of Land and Natural Resources (DLNR) to residents of Kailua Kona, Hawaii, shall be limited to the amount issued during fiscal year 1995-1996.

Supportive testimony was received from more than 325 members of the general public. DLNR and the Hawaii Conservation Association submitted comments expressing their concerns about limiting the number of aquarium fish collection permits issued to residents of North and South Kona and Kohala districts, while leaving residents of other districts and other islands unaffected.

However, your Committee finds that it is reasonable to limit the number of permits issued for use of small mesh nets for collecting fish for aquarium purposes.

This bill has been amended by placing a statewide cap on the number of aquarium fish permits issued beginning July 1, 1998, which shall be limited to the number of permits issued during fiscal 1997-1998 levels.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 612, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 612, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Yoshinaga.

**SCRep. 576-98 Judiciary on H.B. No. 2519**

The purpose of this bill is to repeal the requirement that the Hawaii State Ethics Commission (Commission) maintain a list of all persons who examine certain public financial disclosure statements.

The Commission and Common Cause Hawaii testified in support of the bill.

Your Committee finds that a Hawaii Circuit Court in Boyer v. State of Hawaii has ruled unconstitutional the practice of maintaining a list of persons who examine disclosure statements and keeping the list confidential as established in section 84-31.5, Hawaii Revised Statutes.

Your Committee believes that this bill is necessary to eliminate any confusion and to comply with the circuit court's order.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2519 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 577-98 Judiciary on H.B. No. 2887**

The purpose of this bill is to enable the State Commission on the Status of Women (Commission) to conduct its business more efficiently and effectively by:

- (1) Clarifying that the ex officio members, or their designated representatives, serve as nonvoting members and that the remaining seven appointed members of the Commission serve as voting members;
- (2) Clarifying that the chairperson of the Commission be elected from the seven appointed, voting members; and
- (3) Providing that a quorum to do business or validate any act of the Commission consist of a majority of the seven appointed, voting members.

Your Committee finds that the existing law is ambiguous with regard to which members are voting or nonvoting, whether ex officio members may designate representatives, and the manner in which quorum should be determined. By clarifying these issues, this measure will enable the Commission to achieve quorum more easily and allow designated representatives of ex officio members to participate in Commission meetings when the ex officio members are unable to attend.

Testimony from the State Attorney General, the Commission, and an individual was submitted in support of this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2887 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Lee and Menor.

**SCRep. 578-98      Judiciary on H.B. No. 2666**

The purpose of H.B. 2666 is to amend the domestic abuse laws by removing the requirement that abuse be "recent" in a judge's decision to issue an ex parte temporary restraining order and in a police officer's decision to remove a person from a premises.

This bill also replaces the three-year limit on protective orders with a thirty-day minimum and changes the phrases "cooling off period" to "period of safety" and "domestic violence treatment and counseling" to "domestic violence intervention."

Your Committee received testimony in support of H.B. 2666 from the Hawaii State Commission on the Status of Women, the Honolulu Department of the Prosecuting Attorney, the Honolulu Police Department, the Domestic Violence Clearinghouse and Legal Hotline, Child and Family Service, the Hawaii State Coalition Against Domestic Violence, and Hawaii Lawyers Care. Hawaii Citizens' Rights and Lessons in Firearms Education opposed this bill. The Judiciary and the Office of the Public Defender commented on this bill.

An ex parte temporary restraining order must state that there is probable cause to believe that a "recent" past act or acts of abuse have occurred. This bill removes the requirement that the past act of abuse be "recent" in order to conform the language with that governing protective orders. This change would also provide judges more discretion to grant temporary restraining orders. However, your Committee is concerned that taking out the word "recent" could result in the issuance of temporary restraining orders for incidents that are too remote in time. Issuing restraining orders for acts of abuse that occurred in the distant past would be inconsistent with the purpose of temporary restraining orders.

This bill also removes "recent" from the law governing the police issuance of twenty-four hour warnings. Under current law, if a police officer has reasonable grounds to believe that there was recent physical abuse or harm, the officer may order the abuser to leave the premises for a cooling off period of twenty-four hours. Your Committee finds that police officers responding to a domestic violence complaint have to make quick decisions on whether or not to remove an abuser from a home. This decision is often delayed because an officer has to interpret how "recently" the physical abuse occurred. Deleting this ambiguous term would result in more twenty-four hour warnings, thereby protecting more victims of domestic abuse.

By removing the three-year maximum on protective orders, this bill would authorize the establishment of a protective order without any time limitation. In many cases, a three-year protective order may not be adequate. Your Committee finds, however, that a better way to effectuate the intent of this bill is to keep the three-year maximum in place and allow for unlimited extensions of protective orders for up to three additional years from the expiration of the preceding order.

H.B. 2666 substitutes the term "period of safety" for "cooling off period." The intent of this amendment is to emphasize that by removing a domestic abuser from a premises after an incident, the concern is for the victim rather than the aggressor. However, the term "period of safety" may mislead a victim into believing that the victim is actually safe from further abuse. In order to avoid this problem, your Committee recommends changing the phrase to "period of separation."

This bill also substitutes the phrase "domestic violence intervention" for "domestic violence treatment or counseling." This change reflects the current language in the domestic violence community and accurately describes the process domestic abusers face during probation.

Finally, your Committee has incorporated into H.B. 2666 the provisions of H.B. 3190, which also relates to domestic violence. H.B. 3190 covers the same subject matter and amends the same statutes as H.B. 2666. The purpose of H.B. 3190 is to allow the court to extend the period of probation for a defendant convicted of misdemeanor domestic abuse if the defendant is unable to complete the ordered treatment or counseling within the original probation period.

However, your Committee finds that extending a period of probation after that period has been set by the court may be unconstitutional. Accordingly, your Committee has changed the provisions of H.B. 3190 by allowing the court to sentence a defendant convicted under sections 586-4 or 709-906, Hawaii Revised Statutes, to a probationary period of up to two years.

Your Committee has amended this bill by:

- (1) Not deleting the requirement that an ex parte temporary restraining order state that there is probable cause to believe that a recent past act or acts of abuse have occurred;
- (2) Not changing the period for a protective order from a maximum of three years to a minimum of thirty days;
- (3) Allowing for unlimited renewal of protective orders for up to three years from the expiration date of the preceding protective order;
- (4) Changing the phrase "period of safety" to "period of separation;"

- (5) Requiring that a person ordered by the court to undergo domestic violence intervention provide adequate proof of compliance with the court's order;
- (6) Allowing the court the discretion to sentence a defendant convicted under section 586-4 or 709-906, Hawaii Revised Statutes, to a period of probation not exceeding two years; and
- (7) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2666, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2666, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Lee and Menor.

**SCRep. 579-98      Judiciary on H.B. No. 3010**

The purpose of this bill is to cede the State of Hawaii's concurrent jurisdiction over land and improvements which the United States Department of Justice acquires, leases, occupies, or controls in the State of Hawaii.

The Department of the Attorney General testified in support of this measure.

Your Committee finds that cession of the State's concurrent jurisdiction will allow the United States to enforce federal law at the federal detention center which is to be constructed at the Honolulu International Airport. Cession will also relieve the State of the burden of investigating and prosecuting criminal offenses that occur at the federal detention center. Your Committee notes that law violators in the area of concurrent jurisdiction will be subject to both federal and state law.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3010, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Lee and Menor.

**SCRep. 580-98      Judiciary on H.B. No. 2667**

The purpose of this measure is to protect pet animals from being deprived of necessary sustenance, by providing that depriving pet animals of necessary sustenance constitutes the crime of cruelty to animals.

Your Committee received testimony in support of this measure from representatives of the Hawaiian Humane Society and the Maui Humane Society.

Your Committee finds that many animals in our community are pet animals. These pet animals deserve at least the minimum care of food, water, and shelter. This measure establishes guidelines and enforcement tools to be used to prevent the neglect and abuse of these animals.

Your Committee has amended this measure by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2667, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2667, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Lee and Menor.

**SCRep. 581-98      Judiciary on H.B. No. 2437**

The purpose of this bill is to amend the controlled substances law by:

- (1) Making it an offense to fail to obtain proper identification and document the identity of individuals to whom a controlled substance is dispensed; and
- (2) Giving narcotics investigators the power to obtain records relating to controlled substance activities without a subpoena.

A representative of the Department of Public Safety Narcotics Enforcement Division and a representative of Longs Drug Stores testified in support of this bill. A representative of the Hawaii Medical Association testified in opposition to this bill.

Your Committee finds that abuse of prescription drugs is a serious problem in our society. About 2.6 million Americans use prescription painkillers, stimulants, tranquilizers, and sedatives for non-medical reasons, and millions of prescription pills enter the nation's illicit drug market yearly. In fact, during fiscal year 1997, the Narcotics Enforcement Division of the Department of Public Safety investigated eighty-seven cases relating to forged or altered prescriptions, resulting in seventy-nine arrests. Had the amendments proposed in H.B. 2437 been in effect during that time, all eighty-seven individuals would have been arrested.

Therefore, your Committee finds that the simple act of requiring a person who picks up a controlled substance at a pharmacy to present proper identification will act as a strong deterrent to those individuals who present fraudulent prescriptions. However, your Committee recognizes that this requirement needs to be balanced with situations where someone without a photograph identification legally purchases a controlled substance.

This bill also clarifies that Narcotics Enforcement Division personnel may obtain, without subpoena, records pertaining to the manufacture, distribution, administration, or prescription of controlled substances or regulated chemicals designated under section 329-51, Hawaii Revised Statutes.

Your Committee has amended this bill by:

- (1) Clarifying that the duty to obtain proper identification and to document the identity of individuals to whom a controlled substance is dispensed applies to practitioners and pharmacists only;
- (2) Adding a requirement that the documentation of the individual's identity be made on a log book kept by the practitioner or pharmacist;
- (3) Requiring a pharmacist to verify with the prescriber the validity of the prescription and identity of the patient if the individual does not have proper identification;
- (4) Limiting the instances when a narcotics division investigator can obtain records without a subpoena to investigations of misrepresentation, fraud, forgery, deception, or subterfuge;
- (5) Providing that for the purposes of this section, an individual commits fraud if the individual does not reveal to a practitioner from whom the individual seeks a controlled substance the fact that the individual had obtained a controlled substance from another practitioner within the last thirty days; and
- (6) Making technical, nonsubstantive changes.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2437, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2437, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.

**SCRep. 582-98 Finance on H.B. No. 2512**

The purpose of this bill is to provide tax relief to sole proprietors by allowing them to deduct 100 percent of health care insurance costs from gross income in calculating the state income tax.

The National Federation of Independent Business, the Democratic Party of Hawaii, and an individual testified in support of this measure. The Department of Taxation testified in opposition of this measure. The Tax Foundation of Hawaii commented on this measure.

Your Committee has amended the bill by:

- (1) Deleting its substance and inserting the substance of the Internal Revenue Code (I.R.C.) conformity bill (H.B. No. 3034, H.D. 1), heard by the Finance Committee on February 23, 1998. This bill conforms Hawaii's tax code to the federal I.R.C., including the federal provision which allows self-employed individuals to deduct forty-five percent of the premiums paid on health insurance for 1998 and 1999. This deduction will increase to ninety percent for 2006 and 100 percent for 2007, and thereafter; and
- (2) Making minor technical revisions to the substance of H.B. No. 3034, H.D. 1, to conform the cited language to existing statutory provisions and for style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2512, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2512, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 583-98 Finance on H.B. No. 3429**

The purpose of this bill is to reduce the cost of processing the state's payroll by appropriating funds for a pilot project to privatize or outsource the process on a limited basis.

Testimony in support of the bill was submitted by Ceridian Employer Services and the Representative from the Twenty-Second District. The Department of Accounting and General Services testified in opposition to the bill.

Your Committee finds that the pilot project proposed in this bill will help determine whether the State can reduce its payroll processing costs in the same way that many large private firms have already done. Should the pilot project result in cost reductions, the Department of Accounting and General Services is encouraged to outsource the processing of the entire state payroll.



As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3429, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 584-98 Finance on H.B. No. 3453**

The purpose of this bill is to authorize the issuance of special purpose revenues up to \$150,000,000 to assist the Queen's Health Systems in improving and expanding its health care facilities and programs for the people of Hawaii.

The Queen's Health Systems submitted testimony in support of this measure.

Your Committee has amended this measure by:

- (1) Lapsing the authorization to issue special purpose revenue bonds on June 30, 2003; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3453, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3453, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 585-98 Finance on H.B. No. 3004**

The purpose of this bill is to make technical corrections with respect to the management of financing agreements.

Specifically, this bill:

- (1) Amends reporting and budgeting requirements for the University of Hawaii and the Department of Health; and
- (2) Makes technical, housekeeping amendments to Chapter 37D, Hawaii Revised Statutes.

The Department of Budget and Finance supported this bill.

Your Committee has amended this measure by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3004, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3004, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 586-98 Judiciary on H.B. No. 2973**

The purpose of H.B. 2973, H.D. 1, is to subject a physician who knowingly performs a partial-birth abortion to a fine or imprisonment, unless the procedure is necessary to save the life of the mother.

Your Committee received testimony in support of this bill from Hawaii Right to Life, the Roman Catholic Church of Hawaii, the American Center for Law and Justice of Hawaii, the Archbishop Fulton J. Sheen Foundation, several religious organizations, and other concerned groups and individuals.

The Department of Health, Hawaii State Commission on the Status of Women, the Hawaii Medical Association, the American College of Obstetricians and Gynecologists, Hawaii Women Lawyers, the American Civil Liberties Union of Hawaii, and other concerned groups and individuals testified in opposition to this bill.

The Board of Medical Examiners (Board) commented on the portion of the bill relating to hearings by the Board for defendants accused of performing partial-birth abortions.

Your Committee finds that there exists a medical procedure known as intact dilation and extraction, or intact dilation and evacuation, commonly called "partial-birth abortion". There are no studies or peer-review medical literature covering this procedure.

During this procedure a physician delivers, in a breech position, all but the head of a fetus. The physician forces the tip of a pair of scissors into the back of the head of the fetus at the base of the skull and spreads the scissor to make a hole. A suction catheter placed into this hole removes the brain of the fetus. The skull collapses, and the rest of the fetus is removed.

Your Committee finds that this procedure is never medically necessary. The American College of Obstetricians and Gynecologists, over six hundred doctors (mostly obstetricians and gynecologists and fetal/maternal experts), and former

Surgeon General C. Everett Koop have verified that there are no medical conditions, either maternal or fetal, that necessitate the use of partial-birth abortions.

Your Committee further finds that this bill is not contrary to the decisions of the United States Supreme Court in Roe v. Wade and Planned Parenthood v. Casey. The United States Supreme Court specifically noted that the Roe decision did not apply to the killing of a child in the process of delivery. Furthermore, this bill does not unduly burden a woman's right to choose an abortion because there are other abortion procedures that differ materially from partial-birth abortion, which remain fully available. There is no constitutional violation, and no undue interference with choice, as this bill limits itself solely to a single procedure which is never medically necessary.

Accordingly, your Committee agrees with the intent of H.B. 2973, H.D. 1, to ban partial-birth abortions.

However, your Committee has tailored this measure to the time when this procedure is most often performed, after the nineteenth week of pregnancy. The testimony made it clear that most partial birth abortions are performed between the twentieth and twenty-fourth weeks of pregnancy.

Your Committee is also concerned that this bill may have a chilling effect on a doctor's medical judgment. Your Committee does not want to place physicians in the position where they must choose between the life of a patient, and their own freedom. Therefore, your Committee has changed the penalty for performing a partial-birth abortion from imprisonment to a revocation of the physician's license by the appropriate medical board. If the board determines that the procedure was performed in the good faith belief that it was necessary to preserve the life of the mother, there would be no penalties and no claim for damages under this measure. These changes should reassure physicians that innocent errors of judgment will not lead to punishment.

Furthermore, section 453-16, Hawaii Revised Statutes, already provides a penalty of five years in prison for any abortions performed by an unlicensed person. This section would encompass physicians whose licenses have been revoked under this law, but who perform the procedure anyway. Therefore, there is no need for any additional criminal penalties in this bill.

Accordingly, your Committee has amended this bill by:

- (1) Adding a purpose and findings section describing the prohibited procedure and explaining that this bill passes constitutional muster;
- (2) Prohibiting partial-birth abortions after the nineteenth week of pregnancy;
- (3) Removing the criminal penalties for performing partial-birth abortions;
- (4) Providing that violation of this law is basis for revocation of the physician's medical license by the appropriate medical board;
- (5) Deleting the provision for a hearing before the Board for defendants accused of performing a partial-birth abortion;
- (6) Deleting the portion of the bill exempting a woman upon whom a partial-birth abortion is performed, from prosecution under or conspiracy to violate the chapter; and
- (7) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee finds that these changes effectively outlaw the partial-birth abortion procedure without unduly interfering with either the doctor-patient relationship or the right of a woman to choose to terminate her pregnancy.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2973, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2973, H.D. 2.

Signed by all members of the Committee except Representatives Herkes, Lee and Thielen.  
(Representative Case voted no.)

**SCRep. 587-98      Finance on H.B. No. 3028**

The purpose of this bill is to statutorily recognize the Medicaid financed home and community based waiver program and its effects on the provision of health care by the State.

The Department of Human Services testified in support of this measure. The Healthcare Association commented on this measure.

Your Committee made technical, nonsubstantive amendments to the bill for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3028, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3028, H.D. 1.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 588-98      Finance on H.B. No. 3496**

The purpose of this bill is to clarify the appeals provisions relating to the Housing and Community Development Corporation (HCDC) of Hawaii by:

- (1) Providing guidelines for the HCDC to follow in designating an appeals board; and
- (2) Deleting the rulemaking authority of HCDC in relation to the admission of new facts in an appeal that were not available during the hearing.

The Hawaii Housing Authority submitted testimony in support of this bill.

Your Committee has amended this measure by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3496, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3496, H.D. 2.

Signed by all members of the Committee.

**SCRep. 589-98 Finance on H.B. No. 2788**

The purpose of this bill is to authorize \$200,000 from the Clean Hawaii Fund to be expended by the Clean Hawaii Center for fiscal year 1997-1998.

Your Committee has received a message from the Governor, dated February 4, 1998:

- (1) Stating that funding is required for business development support in the first quarter of 1998; and
- (2) Requesting the Legislature for immediate passage of this bill to support Hawaii small businesses that use recycled material to produce useful items that would otherwise go to landfill.

The Department of Business, Economic Development, and Tourism testified in support of this measure.

Your Committee made technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2788, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2788, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 590-98 Finance on H.B. No. 3468**

The purpose of this bill is to amend the composition of the Hawaii Health Systems Corporation (HHSC) board by:

- (1) Reducing the number of at-large board members from six to five; and
- (2) Replacing that member with a representative selected by the chairpersons of the five regional public health advisory committees (MACs) as a voting, ex officio member.

The HHSC submitted testimony in support of this measure.

Your Committee finds that there is widespread dissatisfaction with the present composition of the HHSC board. This has resulted from the belief that concerns voiced at the community and regional levels are not being heard by the HHSC board and from the fact that the MACs have not been represented during executive sessions. Presently, there is limited communication between HHSC board members and the communities served by the HHSC. Placing MAC representatives on the HHSC board will result in more open communication and a reasonable balance of interests.

Accordingly, your Committee has amended this measure by:

- (1) Establishing the Executive Public Health Facility Management Advisory Committee (Executive MAC) consisting of the chairpersons of the five regional MACs;
- (2) Requiring the Executive MAC to select its own chairperson and vice-chairperson;
- (3) Providing that the Executive MAC members of the HHSC board cannot be removed by a vote of the other HHSC board members;
- (4) Reducing the number of at-large HHSC board members from six to four, and including the chairperson and vice-chairperson of the executive MAC as ex officio voting members;
- (5) Replacing the two existing at-large members of the HHSC board, who were appointed to two-year terms, with the chairperson and vice-chairperson of the Executive MAC on August 1, 1998; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3468, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3468, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 591-98 Finance on H.B. No. 2549**

The purpose of this bill is to provide for the development of a sports complex to:

- (1) Accommodate professional sports teams or leagues from the U.S. Mainland or abroad to train and practice; and
- (2) Allow for the use of the facilities by Hawaii residents when the complex is not in use by those teams or leagues.

The Department of Business, Economic Development, and Tourism submitted testimony in support of the intent of this bill. Comments were received from the Department of Land and Natural Resources.

Your Committee has amended this bill by:

- (1) Combining the requirements for indemnification and a hold harmless agreement for liability arising from the sports complex projects; and
- (2) Making other technical, nonsubstantive amendments for clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2549, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2549, H.D. 1.

Signed by all members of the Committee.  
(Representative Marumoto voted no.)

**SCRep. 592-98 Finance on H.B. No. 3065**

The purpose of this bill is to reduce the loss of cigarette tax revenue to the State from the illegal sale of untaxed cigarettes by requiring that each package of cigarettes sold within the State be identified with a tax stamp or meter impression.

This bill also:

- (1) Decreases the price differential resulting from the cigarette tax; and
- (2) Defers the cigarette tax increase of \$0.20 per package.

Fleming Companies, Inc., Hawaii Division testified in support of this measure. The Department of Taxation and the Tax Foundation of Hawaii commented on this measure. The Department of the Attorney General, the Department of Health, the American Lung Association, the Coalition for a Tobacco Free Hawaii, the Campaign for Tobacco Free Kids, and ENACT testified in opposition to this bill.

Your Committee has made technical, nonsubstantive amendments to the bill to conform to standard drafting conventions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3065, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3065, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

**SCRep. 593-98 Finance on H.B. No. 2909**

The purpose of this bill is to appropriate funds for agricultural research and development to be performed by the Hawaii Agriculture Research Center (HARC).

Testimony in support of the bill was received from the Department of Agriculture, HARC, the Hawaii Farm Bureau, the Hawaii Forest Industry Association, Gay & Robinson, Inc., Forest Solutions, Inc., Garst, the Pineapple Growers Association, Del Monte Fresh Produce (Hawaii) Inc., the Hawaii Papaya Industry Association, Oils of Aloha, and an individual. Comments were submitted by the University of Hawaii College of Tropical Agriculture and Human Resources.

Your Committee has amended this bill by:

- (1) Deleting the provision that an unspecified amount of the appropriation may be released unmatched for exploratory agricultural research and development; and
- (2) Making technical nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2909, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2909, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 594-98 Finance on H.B. No. 3020**

The purpose of this bill is to:

- (1) Authorize the Hawaiian Homes Commission (Commission) to invest moneys in the Native Hawaiian Rehabilitation Fund in accordance with investment guidelines approved by the Commission; and
- (2) Reclassify various special funds as trust funds to more accurately reflect the character of these funds.

The Department of Hawaiian Homes Lands testified in support of this measure.

Your Committee has made technical, nonsubstantive amendments to the bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3020, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3020, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 595-98 Finance on H.B. No. 3164**

The purpose of this bill is to assure the continuation of the Peer Education Program (Peer Program) by transferring the Peer Program from the Department of Health to the Department of Education.

Testimony in support of this measure was submitted by the Hawaii State Teachers Association, the Coalition for a Drug-Free Hawaii, the American Lung Association, and several individuals. In addition, a multitude of peer education students, as well as a number of peer education program coordinators and school principals also testified in support of the bill. The Healthy Mothers Healthy Babies Coalition of Hawaii, the Department of Education, and the Keiki Injury Prevention Coalition testified in support of the intent of this measure. The Kaimuki-Waiālae YMCA supported the funding of the Peer Education Program. The Teen Intervention Program of Kapiolani Health testified in opposition of this measure. The Department of Health submitted comments on the measure.

Your Committee has amended the bill by:

- (1) Deleting the specification for the transfer of \$556,009 from HLT540 to EDN100;
- (2) Inserting an appropriation for the Peer Program; and
- (3) Making technical, nonsubstantive revisions for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3164, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3164, H.D. 3.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 596-98 Finance on H.B. No. 3454**

The purpose of this bill is to support efforts to celebrate the centennial anniversary of the arrival of the first Okinawans to Hawaii by establishing the Okinawan Centennial Celebration Commission (Commission) to develop and coordinate various program activities for this celebration.

The State Foundation on Culture and the Arts submitted testimony in support of the bill.

The bill has been amended by:

- (1) Inserting \$1 as the appropriation amount to continue discussion on the matter;
- (2) Clarifying that the appropriation is for the Commission established by the bill;
- (3) Changing the effective date of the appropriation to July 1, 1998; and
- (4) Clarifying that the bill sunsets on June 30, 2001.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3454, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3454, H.D. 2.

Signed by all members of the Committee.

**SCRep. 597-98 Finance on H.B. No. 2957**

The purpose of this bill is to amend the amount charged by the Department of Land and Natural Resources (DLNR) to replace lost hunting licenses, from fifty cents to not less than fifty percent of the current cost of a resident license.

DLNR testified in support of this measure.

Your Committee has amended this bill by establishing the fee to replace a hunting license at fifty percent of the current cost of a resident license.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2957, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2957, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 598-98 Finance on H.B. No. 2771**

The purpose of this bill is to appropriate funds to satisfy claims against the State, its officers, or its employees for payments of judgments or settlements.

Your Committee has amended this bill by:

- (1) Requiring that claims attributable to negligent highway maintenance shall be paid out of the Highway Special Fund;
- (2) Requiring that the amount of all settlements made with prisoners shall be deposited into the General Fund for use by the Criminal Injuries Compensation Commission; and
- (3) Making technical, nonsubstantive revisions for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2771, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2771, H.D. 1.

Signed by all members of the Committee.

**SCRep. 599-98 Finance on H.B. No. 2845**

The purpose of this bill is to:

- (1) Provide for more timely expenditures from the Early Intervention Special Fund and the Early Intervention Trust Fund by authorizing expenditures to be made through the procurement process rather than the grant process; and
- (2) Making the funds permanent.

The Department of Health and the State Procurement Office testified in support of this measure.

Your Committee has amended this measure by:

- (1) Including reference to Chapter 103D, Hawaii Revised Statutes (HRS), to provide flexibility in using either Chapters 103D or 103F, HRS, in the procurement process; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2845, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2845, H.D. 2.

Signed by all members of the Committee.

**SCRep. 600-98 Finance on H.B. No. 2856**

The purpose of this bill is to provide the Hawaii Health Systems Corporation (HHSC) with flexibility to:

- (1) Conduct meetings pertaining to peer review and credentialing matters without complying with the open meeting laws;
- (2) Establish positions; and
- (3) Negotiate with collective bargaining units through memorandum of agreement.

This bill also establishes a working group to identify and reach written agreement describing the liabilities assumed by the HHSC.

The HHSC and the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO testified in support of this measure. The Department of Budget and Finance commented on the measure.

Your Committee has amended this bill by:

- (1) Deleting the requirement that the working group reach a written agreement;
- (2) Requiring that the work group report reflect the positions of all participating departments and agencies; and
- (3) Making technical, nonsubstantive revisions to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2856, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2856, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 601-98 Finance on H.B. No. 2987**

The purpose of this bill is to establish the Animal Quarantine Special Fund to cover the costs of operating the Rabies Prevention Program.

The Department of Agriculture submitted testimony in support of this bill.

Your Committee has amended this bill by:

- (1) Replacing references to the Rabies Prevention Program with reference to quarantining cats, dogs, etc. to reflect the title of the bill; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2987, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2987, H.D. 1.

Signed by all members of the Committee.  
(Representatives Fox, Marumoto and Meyer voted no.)

**SCRep. 602-98 Finance on H.B. No. 2536**

The purpose of this bill is to reduce the incidence of adult domestic violence and sexual assault-related deaths by directing the Department of the Attorney General to establish a protocol for the development and implementation of multiagency and multidisciplinary death review teams.

The Department of the Attorney General, the Hawaii State Commission on the Status of Women, and the Hawaii Women's Coalition testified in support of this bill. The City and County of Honolulu Department of the Prosecuting Attorney supported the bill's concept, and the Hawaii Women Lawyers supported its intent. The Honolulu Police Department opposed this measure.

Your Committee has amended this bill by making technical, nonsubstantive revisions for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2536, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2536, H.D. 2.

Signed by all members of the Committee.

**SCRep. 603-98 Finance on H.B. No. 2528**

The purpose of this bill is to exempt service performed by election officials and election workers from federal unemployment tax if they are paid less than \$1,000 in a calendar year.

The Office of Elections and the Department of Labor and Industrial Relations submitted testimony in support of this measure.

Your Committee has made technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2528, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2528, H.D. 1.

Signed by all members of the Committee.

**SCRep. 604-98 Finance on H.B. No. 3030**

The purpose of this bill is to give the Department of Human Services (DHS) the flexibility to meet the rising demands of workload increase in child care by authorizing DHS to:

- (1) Contract out certain aspects of child care licensing or child care services;
- (2) Charge a fee to licensed group child care centers to help defray the cost of the licensing process; and
- (3) Establish a special fund account to deposit fees that are collected for licensure of group child care centers.

DHS submitted comments on this Administration bill. The Childcare Business Coalition opposed this bill.

Your Committee has amended this measure by placing a \$100 cap on the fee for licensure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3030, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3030, H.D. 2.

Signed by all members of the Committee.

**SCRep. 605-98 Finance on H.B. No. 2876**

The purpose of this bill is to strengthen efforts of the Department of Land and Natural Resources (DLNR) to manage, improve, and restore resource value lands, including beaches and shore areas, by:

- (1) Broadening the scope of the Fund for the Environment for DLNR's Coastal Lands Program;
- (2) Providing additional funding tools for the improvement of resource value lands in the State; and
- (3) Appropriating funds for the management, improvement, and restoration of resource value lands.

DLNR, the Department of Business, Economic Development, and Tourism, the Department of Land Utilization of the City and County of Honolulu, the Sierra Club, Hawaii Chapter, and an individual testified in support of the measure. The Office of Hawaiian Affairs and Kamehameha Schools Bishop Estate testified in opposition to the measure.

Your Committee has amended the bill by:

- (1) Clarifying the appropriation of \$1 from the Special Land and Development Fund to be deposited into the Fund for the Environment created under section 173A-5, Hawaii Revised Statutes, for the management, improvement, and restoration of resource value lands; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2876, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2876, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 606-98 Finance on H.B. No. 3489**

The purpose of this bill is to clarify the fees owed by cruise boats holding a Kewalo Basin sublease whenever weather conditions require the loading or unloading of passengers in Honolulu Harbor.

Paradise Cruise, Ltd. testified in support of this bill. The Department of Transportation (DOT) commented on this measure.

Your Committee has amended this bill by:

- (1) Clarifying the conditions under which cruise boats that use the Honolulu Harbor facilities are required to pay special fees;
- (2) Requiring that a report as well as the remittance of net charges be submitted to the DOT within thirty days after each use of Honolulu Harbor facilities; and
- (3) Making technical, nonsubstantive revisions for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3489, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3489, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 607-98 Finance on H.B. No. 3027**



The purpose of this bill is to allow the Department of Human Services (DHS) to recover Medicaid overpayments caused by incorrect payment allowance only if the overpayments were the result of actions or omissions on the part of the provider.

The Hawaii Medical Association testified in support of this bill. DHS testified in support of the intent of this bill, but preferred the original bill as introduced.

Your Committee amended this bill by reinstating the original language of H.B. No. 3027, which would enhance DHS's ability to recover all Medicaid overpayments, including errors identified through the post payment process.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3027, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3027, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 608-98      Judiciary on H.B. No. 2533**

The purpose of this measure is to increase the fine for the importation of a prohibited or restricted plant, animal, or microorganism, from a fine between \$500 to \$25,000 to a fine between \$100,000 to \$200,000.

Your Committee received testimony in support of the intent of this measure from the University of Hawaii Environmental Center. The Department of Agriculture also submitted comments on this measure.

Your Committee finds that the threat to Hawaii's native ecosystem posed by the introduction of alien species, which is universally acknowledged and scientifically documented, deserves focused attention to protect our biological resources from further encroachment and deterioration. However, your Committee believes that violations of the plant and non-domestic animal quarantine law can and do present different levels of risk to the community, agriculture, and our natural resources.

Upon considering this measure further, your Committee has amended this measure by:

- (1) Deleting the provisions creating a minimum fine of \$100,000 to \$200,000 for all violations;
- (2) Creating a two-tiered system for violations;
- (3) Providing that a person convicted for violations involving only the importation, possession, transport or harboring of a plant, animal, or microorganism that is restricted or prohibited shall be guilty of a petty misdemeanor and subject to a fine of no less than \$5,000, but no more \$20,000; and
- (4) Providing that any person convicted of intentionally importing, possessing, transporting, or harboring with the intent to propagate or sell any plant, animal, or microorganism shall be guilty of a class C felony and subject to fine of no less than \$100,000, but not more than \$200,000.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2533, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2533, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 609-98      Judiciary on H.B. No. 2380**

The purpose of this measure is to extend the offense of unlawful posting in public places to utility and street-light poles.

Your Committee received testimony in support of this measure from representatives from the Department of Transportation and Kaimuki Neighborhood Board No. 4. Your Committee also received comments on this measure from representatives of Kauai Electric, the Outdoor Circle, and GTE Hawaiian Tel.

Your Committee finds that we in Hawaii can be proud of the successful efforts to prevent the unsightly posting of garish outdoor advertisements, such as large, obtrusive billboards, and other such materials in public places. Your Committee is committed to the continued beautification of our State, which includes keeping our streets clean from unsightly flyers, handbills, posters, and signs.

Your Committee finds that the posting of materials on utility poles and street-light poles not only diminishes the aesthetic value of a neighborhood, but also creates a safety hazard. Your Committee believes that requiring the person responsible for the unlawful posting or the person sponsoring the event advertised on the posted material to remove the material will create more accountability in this area and provide specific statutory authority to enable enforcement of the law.

Your Committee is concerned that posting materials on utility poles creates an unacceptable safety hazard for both the person posting the material and those persons who are required to work on or about utility poles. Your Committee also believes that not requiring the removal of unlawfully posted material until one month after being served notice to remove the material or until one month after the date on the posted material gives the wrong impression that such posting is acceptable if it is removed within one month's time. Accordingly, your Committee has amended this measure by:

- (1) Clarifying that except for a public officer in the performance of a public duty, or a private person in giving legal notice on other than a utility pole, it is unlawful for any person to post materials in public places, including utility poles and street-light poles;
- (2) Requiring a person, who acts knowingly as to posting, and who is either responsible for posting the material or the person sponsoring the event on the posted material, to remove the posted material within seventy-two hours of the date of the event advertised on the posted material;
- (3) Subjecting a person who fails to remove the posted material within the time specified to a fine of not less than \$100, but not more than \$200 per posted material;
- (4) Deleting the express authorization of the counties to enact stricter posting controls; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2380, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2380, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 610-98      Judiciary on H.B. No. 2850**

The purpose of this measure is to increase the amount of the estate value in cases where the clerk of the circuit court may act as the guardian of property for protected persons.

Your Committee received testimony in support of this measure from representatives of the Executive Office on Aging and the Policy Advisory Board for Elderly Affairs. The Judiciary and CSI, Inc., submitted testimony in opposition to the measure.

Your Committee believes that the amount of \$8,000 does not realistically reflect today's estate values. Your Committee finds that a change to increase this amount will more accurately reflect current estate values and provide greater protection, safeguards, and less costly legal service options for our citizens. Your Committee is concerned, however, that an increase of 7.5 times the current amount will greatly increase the number of small guardianship cases and impose serious financial and operational burdens on the Judiciary.

Upon careful consideration, your Committee has amended this measure by:

- (1) Lowering from \$60,000 to \$10,000 the amount of the estate value for which the clerk of the circuit court may act as guardian; and
- (2) Lowering the amount of an estate value for which a guardian of the property will be appointed from \$70,000 to \$16,250.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2850, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2850, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Lee and Menor.

**SCRep. 611-98      Judiciary on H.B. No. 2851**

The purpose of this bill is to allow a grandparent of a minor child to file a petition for an order of reasonable visitation rights even in situations where the parents are still residing together.

The Office of Hawaiian Affairs and a member of the public testified in support of the bill.

Under current law, a grandparent or grandparents of a minor child can file a petition with the court for an order of reasonable visitation rights only if:

- (1) The State is the home state of the child at the time of the commencement of the proceeding;
- (2) Reasonable visitation rights are in the best interest of the child; and
- (3) Either or both of the child's parents are deceased or the child's parents are divorced or residing separate and apart.

Your Committee finds that deletion of the requirement that the parents be divorced or separated or residing apart will allow grandparents to intervene in a grandchild's life even if both parents are raising the child. In today's society, grandparents play an integral part in the lives of children. In the United States, millions of grandparents care for their grandchildren when parents are away. Your Committee believes that there are times when visitation by grandparents is in the best interest of the child and thus should be encouraged.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2851 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Lee and Menor.

**SCRep. 612-98      Judiciary on H.B. No. 2889**

The purpose of this bill is to:

- (1) Add a new definition for "ephedrine" in the Uniform Controlled Substances Act;
- (2) Correct an error in the spelling of Gamma Hydroxybutyrate (GHB "Date rape drug");
- (3) Make Flunitrazepam (Rohypnol) a Schedule II controlled substance;
- (4) Add a notification requirement to section 329-38, Hawaii Revised Statutes (H.R.S.); and
- (5) Increase the penalties for those who distribute a regulated chemical without a permit.

Under current federal law, the definition of "ephedrine" does not exempt or otherwise provide for health food and dietary supplements that contain this chemical. The Food and Drug Administration has found that dietary supplements that contain eight milligrams or more of ephedrine alkaloids per serving, that have labeling suggesting or recommending conditions of use that would result in an intake of eight milligrams or more in a six-hour period, or that suggest twenty-four milligrams or more in a day are adulterated. Accordingly, federal law governing ephedrine has become more stringent.

H.B. 2889 would bring Hawaii law into conformity with federal requirements regarding ephedrine combination products. In addition, your Committee recommends an exemption for retail distributors who sell below threshold quantities of less than twenty-four grams of ephedrine combination products.

Flunitrazepam, or Rohypnol, is increasing in popularity among drug abusers as the original "date rape" drug. This substance is neither manufactured nor sold legally in the United States, and is presently a Schedule I controlled substance in Florida, Idaho, Oklahoma, and Pennsylvania. Your Committee finds that moving this substance from Schedule IV to Schedule II would assist the Narcotics Enforcement Division in keeping this dangerous substance off the streets.

H.B. 2889 also amends subsection 329-38(e)(2)(B), H.R.S., to require a hospital or other institution to forward a copy of a special internal code number list to the Department of Public Safety. Presently, interns, residents, foreign-trained physicians, or physicians on the staff of a facility serving veterans can prescribe controlled substances using the Controlled Substance registration number of their respective hospital or institution. When patients attempt to fill these prescriptions outside the hospital or institution at a retail pharmacy, the pharmacy is unable to verify the validity of the prescription. This amendment addresses this problem by having a central location where retail pharmacies may verify that the individual who signed the prescription was authorized to do so.

H.B. 2889 would also increase existing penalties for manufacturers, wholesalers, retailers, or others who sell, transfer, or distribute a regulated chemical without a permit from a petty misdemeanor to a class C felony. It would also increase the penalty for a second conviction under section 329-67, H.R.S., from a misdemeanor to a class B felony. Your Committee finds that the proposed increase is too great, and therefore recommends increasing petty misdemeanors to misdemeanors and misdemeanors to class C felonies. Your Committee also finds that all other current penalties are adequate at this time.

Your Committee has amended this bill by:

- (1) Exempting dietary supplements with below threshold quantities of ephedrine from the law requiring a permit for distribution of a controlled substance;
- (2) Deleting section 9 of this bill, which would have raised the penalty for furnishing a controlled substance with knowledge that the recipient will use the substance to unlawfully manufacture a controlled substance to a class B felony;
- (3) Lowering the penalty for selling, transferring, furnishing, or receiving a controlled substance without a permit from a class C felony to a misdemeanor;
- (4) Lowering the penalty for a second conviction of a violation of section 329-67 from a class B felony to a class C felony; and
- (5) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2889, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2889, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.  
(Representative Thielen voted no.)

**SCRep. 613-98      Judiciary on H.B. No. 2932**

The purpose of this bill is to amend the nuisance law by:

- (1) Prohibiting any action against the State or counties;
- (2) Allowing evidence of a person's general reputation to be introduced to prove the existence of a nuisance; and
- (3) Specifically allowing injunctions against entering or residing in any public or private building, premises, or place, to issue against the person causing the nuisance.

Testimony in support of the measure was submitted by the Prosecuting Attorney for the City and County of Honolulu.

Your Committee finds that in 1996 the Legislature passed Act 246, which amended various sections in chapter 712 of the Hawaii Revised Statutes. The purpose of Act 246 was to allow organizations to maintain nuisance abatement suits and thereby obtain injunctive relief against persons utilizing certain buildings, premises, or places, to commit offenses against public health and morals.

Your Committee also finds that the Department of the Prosecuting Attorney, relying on Act 246, began to move for injunctions barring prostitutes from certain areas of Waikiki. The legal reasoning upon which this Act was applied to prostitutes, was that prostitutes who solicit on public streets aggressively hinder both pedestrian and vehicular traffic and harass visitors to the point where their activity becomes a public nuisance.

The circuit courts, however, have denied these motions for injunctions against prostitutes on the grounds that the nuisance abatement statute does not expressly apply to individuals.

In enacting Act 246, your Committee expressly intended that the court could order, as part of the abatement of the nuisance, the exclusion of the person causing the nuisance from the place, building, or premises involved.

This current measure will solve this apparent ambiguity in the law by specifically stating that nothing in the nuisance abatement law prohibits injunctions against persons causing the nuisance.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2932 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.

**SCRep. 614-98      Judiciary on H.B. No. 2941**

The purpose of this measure is to exclude from deferred acceptance of a guilty plea (DAG) or deferred acceptance of a nolo contendere plea (DANC), violations of domestic abuse protective orders, restraining orders in annulment, divorce or separation proceedings, or orders to temporarily restrain harassment.

Your Committee received testimony in support of this measure from representatives of the Prosecuting Attorney, City and County of Honolulu, Child and Family Service, the Domestic Violence Clearinghouse, and the Hawaii State Commission on the Status of Women. The Office of the Public Defender also commented on this measure.

Your Committee finds that DAG's and DANC's are intended to provide certain offenders with the ability to avoid harsh penal consequences and expunge their records when it appears that the person is not likely to re-offend and justice does not require that the person suffer the penalty imposed by law. Your Committee believes, however, that domestic violence and abuse are unacceptable. Your Committee finds that this type of violence and abuse is a pattern which increases in both severity and frequency over time. When restraining orders and protective orders are issued in a domestic abuse situation, they are based on harassing, abusive and threatening behavior which the court finds is likely to continue in the future. Your Committee finds that violations of these direct orders show no regard for the law and should not be considered for the favorable treatment provided by a DAG or DANC plea in domestic abuse cases.

Your Committee believes that the measure should be reserved for domestic abuse cases and thus has amended this measure by removing from the exclusion of DAG and DANC pleas, violations of restraining orders in annulment, divorce or separation proceedings, or orders to temporarily restrain harassment.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2941, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2941, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.

**SCRep. 615-98      Judiciary on H.B. No. 2946**

The purpose of this measure is to provide authorization for the pre-trial detention of certain persons at an adult correctional facility, commitment of certain persons to an adult correctional facility, and the transfer of persons at a youth correctional facility to an adult correctional facility under certain circumstances.

Your Committee received testimony in support of this measure from representatives of the Department of the Prosecuting Attorney of the City and County of Honolulu and the Judiciary. The Office of the Public Defender submitted comments on this measure. Representatives of the Department of Public Safety and the Office of Youth Services submitted testimony in opposition to this measure.

Your Committee finds that in the December, 1997, Intermediate Court of Appeals (ICA) decision In the Interest of John Doe, the Court stated that the Family Court was a court of limited jurisdiction and derived its authority from the statutes that created it and cannot exercise power not specifically granted by statute. Your Committee finds, however, that it is unclear under the current statutes whether a Family Court judge has the authority to detain an adult, who has committed an offense while a minor, in an adult correctional facility pending trial. Accordingly, this measure grants specific statutory authority to the Family Court to order detention of persons in an adult correctional facility pending trial.

The ICA decision also stated that the Family Court did not have specific statutory jurisdiction to commit an adult to an adult correctional facility, where the adult was within the Family Court's jurisdiction for allegedly committing certain law violations when he was a minor. Your Committee believes that granting the Family Court jurisdiction to directly commit a person or require a mandatory transfer to an adult correctional facility will create additional burdens and logistical problems in light of the current overcrowding which continues to plague the Hawaii adult correctional system. In an effort to avoid further overcrowding and tension, your Committee believes that should a person be determined by a court or the youth correctional facility to be in need of incarceration in an adult correctional facility, there are currently waiver and transfer processes which may be utilized for these purposes.

After careful consideration, your Committee has amended this measure by:

- (1) Deleting the provisions granting the Family Court jurisdiction to commit a person to an adult correctional facility;
- (2) Deleting the provisions granting the Family Court authority to include in commitment orders to the Hawaii Youth Correctional Facility that persons may be transferred to an adult correctional facility when the person reaches age 18 or older; and
- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2946, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2946, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.

**SCRep. 616-98      Judiciary on H.B. No. 3252**

The purpose of this bill is to increase from \$1,000 to \$3,000 the property damage threshold when determining a moving violation offense for which proof of financial responsibility shall be furnished.

The Honolulu Department of Finance submitted testimony in support of the bill. State Farm Insurance Companies submitted testimony in opposition to the bill. The Office of the Public Defender submitted comments on the measure.

Your Committee finds that this bill brings the property damage threshold in line with the property damage threshold that applies to the requirement to report an accident.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3252 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Jones, Lee and Menor.

**SCRep. 617-98      Health on H.C.R. No. 11**

The purpose of this concurrent resolution is to enhance the development of infants and toddlers with disabilities and minimize their potential for developmental delay by requesting the Department of Health (DOH) to assess mental health services and provide needed services as early as possible for children under five years of age.

The Protection and Advocacy Agency of Hawaii, the Hawaii Early Intervention Association, the Family Support Services of West Hawaii, and the Hawaii Family Support Center submitted testimony in support of this measure. DOH, the Hawaii Early Intervention Coordinating Council, and Imua Rehab submitted testimony in support of the intent of this measure.

In light of the increased requests for mental health services for older children, the importance of funding early intervention programs becomes even more significant. Your Committee recognizes the tremendous impact that prevention and early intervention has on the lives of these children, and finds it critical to invest its scarce resources on these programs.

Your Committee has amended this measure by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 11, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 11, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami, Saiki, McDermott and Ward.

**SCRep. 618-98      Health on H.C.R. No. 20**

The purpose of this concurrent resolution is to prevent the further spread of resistance to antibiotics by encouraging the Department of Health (DOH) to:

- (1) Monitor local adherence to Centers for Disease Control (CDC) guidelines for preventing the spread of vancomycin resistance; and
- (2) Educate the medical community on over-prescription practices.

DOH submitted testimony in support of the intent of this measure.

Your Committee finds that DOH has fought against the further spread of resistance to antibiotics since 1994 when CDC made their recommendations for preventing the spread of vancomycin resistance. Furthermore, your Committee has learned that professional organizations are best suited to educate the medical community on over-prescription practices.

As a means of continuing progress toward the educational goals of learning the dangers of improper prescription practices, your Committee has amended this measure by:

- (1) Encouraging DOH to continue to monitor local adherence to CDC guidelines;
- (2) Changing "over-prescription" to "improper prescription" to better describe the unsuited practice;
- (3) Changing the title to read: "ENCOURAGING THE DEPARTMENT OF HEALTH TO CONTINUE TO MONITOR LOCAL ADHERENCE TO CENTERS FOR DISEASE CONTROL GUIDELINES AND TO ENCOURAGE PROFESSIONAL ORGANIZATIONS TO EDUCATE THE MEDICAL COMMUNITY ON IMPROPER PRESCRIPTION PRACTICES";
- (4) Citing the high costs of caring for patients with vancomycin-resistant enterococci or methicillin-resistant Staphylococcus aureus infections because they require isolation and are therefore difficult to place for long-term care;
- (5) Removing reference to New Jersey's health education practices and replacing it with the reference to DOH's current role against the further spread of resistance to antibiotics;
- (6) Requesting DOH to encourage professional organizations to educate the medical community of the danger of improper prescription; and
- (7) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 20, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 20, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami, Saiki, McDermott and Ward.

**SCRep. 619-98      Judiciary on H.B. No. 2520**

The purpose of this bill is to clarify that the Hawaii State Ethics Commission (Commission) will only make a frivolous charge determination upon written request of the person charged in a case where the Commission does not issue a decision or final conclusion.

The Commission and Common Cause Hawaii testified in support of this measure.

Passage of this bill will allow the Commission to make a findings as to whether or not a lobbying charge is frivolous only when a request is made by the person charged. Section 97-6(e), Hawaii Revised Statutes (HRS), is part of the Lobbyists Law and is modeled after section 84-31(e), HRS, a similar provision in the State Ethics Code. Last year, section 84-31(e), HRS, was amended to specify that the Commission would investigate the frivolity of an ethics charge only upon the written request of the person charged. This measure aligns section 97-6(e), HRS, with the current standard of section 84-31(e), HRS.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2520, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 620-98      Finance on H.B. No. 2798**

The purpose of this bill is to enable homeowners, who have purchased a home under the Hula Mae Single Family Program and are in the process of refinancing their home, to receive the same three year waiver of the owner-occupancy requirement as given those in the process of selling and transferring title to their property.

This bill amends the Chapter created by Act 350, Session Laws of Hawaii 1997, which will not take effect until July 1, 1998.

The Housing Finance and Development Corporation commented on this Administration bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2798 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 621-98 Finance on H.B. No. 3317**

The purpose of this bill is to give legislative approval for the public auction sale of Mabel Smyth Memorial Auditorium Building and property in fee simple with an upset price of \$5,000,000.

The Department of Land and Natural Resources and the Queen Emma Foundation testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3317 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 622-98 Finance on H.B. No. 3031**

The purpose of this bill is to continue the work of the Campaign Spending Commission (Commission) by:

- (1) Allowing moneys from the Hawaii Election Campaign Fund (Fund) to be used for the Commission's operating expenses, including staff salaries and fringe benefits; and
- (2) Removing the \$100,000 appropriation cap on the Fund for the use for administrative costs.

The League of Women Voters of Hawaii testified in support of this measure. The Commission commented on this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3031, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

**SCRep. 623-98 Consumer Protection and Commerce on H.B. No. 2600**

The purpose of this bill is to create a mechanism, called Uniform Transfer-on-Death (TOD) Security Registration, where security owners can register certain financial assets and designate revocable death beneficiaries to each asset.

The Hawaii Bankers Association and the Hawaii Commission on Uniform State Laws testified in support of this bill.

Your Committee finds that this measure provides an alternative means for the public to transfer assets upon their death which avoids the expense and delay associated with the probate process.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2600 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.

**SCRep. 624-98 Consumer Protection and Commerce on H.B. No. 2833**

The purpose of this measure is to conform the definition of a "public utility" in section 269-17.5, Hawaii Revised Statutes (HRS), with that stated in section 269-1, HRS.

Supportive testimony on the measure was received from the Department of Commerce and Consumer Affairs and the Public Utilities Commission of the Department of Budget and Finance.

Testimony indicated that the list of public utility services in section 269-17.5, HRS, does not include all the services that are defined as public utility services in section 269-1, HRS. Due to this statutory inconsistency, a public utility may attempt to avoid the requirements of section 269-17.5, HRS. This statutory amendment would correct this consequence by making the substantive provisions of the section apply to all public utilities.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2833 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Saiki and Tom.

**SCRep. 625-98 Consumer Protection and Commerce on H.B. No. 3293**

The purpose of this bill is to continue to protect consumers from the unfair marketing practices used by timeshare salesmen by repealing the sunset provision from Act 331, Session Laws of Hawaii 1993 (Act 331).

Act 331 clarifies and expands the list of prohibited activities by sales agents and acquisition agents of time share units or plans, including a temporary, five-year prohibition on the offer, sale, or advertisement for sale of any tourist activity or recreational activity at less than cost to induce purchase of a time share plan or attendance at a time share marketing event.

The Maui Hotel Association testified in support of the bill. A concerned individual testified in opposition to the bill. The Department of Commerce and Consumer Affairs commented on the bill and suggested an amendment.

Your Committee finds that the continued statutory regulation of time share marketing practices will discourage unfair and deceptive tactics and safeguard consumers.

The Department of Commerce and Consumer Affairs testified that the term "cost" as used in section 514E-11, paragraph (13), Hawaii Revised Statutes (HRS), required clarification to increase enforcement ability as either a licensing violation or an unfair or deceptive trade practice. Accordingly, your Committee has amended this bill by:

- (1) Clarifying the term "cost" in section 514E-11, paragraph (13), HRS, to read "actual cost of the activity paid for by the licensee"; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3293, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3293, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.  
(Representative Whalen voted no)

**SCRep. 626-98 Consumer Protection and Commerce on H.B. No. 3281**

The purpose of the bill is to:

- (1) Remove the requirement that a condominium's bylaws state whether the condominium's board of directors may hire a manager or managing agent, or both, and to require instead, that the bylaws state whether the board may enter into any contract for services; and
- (2) Prohibit a condominium managing agent from providing services related to the collection of delinquent maintenance fees.

Testimony in support of the bill was received from several individuals. The Real Estate Commission and the Community Associations Institute, Hawaii Chapter, testified in opposition to the bill.

The testimony of the Real Estate Commission indicated that the method of management for a condominium is a material consideration for prospective buyers of the condominium's units, and, therefore, it is imperative that it be clearly established in the condominium's bylaws. As the proposed amendment to the law would remove this requirement and is unnecessary because condominium associations are not currently precluded from contracting for services other than management services, your Committee has deleted it from the bill.

Additionally, your Committee is not persuaded that prohibiting managing agents from providing collection services will alleviate the problem of excessive fees being assessed for the collection of delinquent maintenance fees. Several testifiers stated that the high cost of collecting delinquent fees is the result of instituting legal action to establish a lien against or foreclose on a condominium unit or due to fee-splitting arrangements that act as a disincentive for the timely collection of maintenance fees. Rather than prohibit one segment of the industry from providing collection services in order to address this problem, fee-splitting arrangements should be disallowed by prohibiting any entity contracted by an association to provide collection services from sharing in any penalties or late charges.

In summary, upon careful consideration, your Committee has amended the bill by:

- (1) Maintaining the requirement that condominium bylaws state whether the board may engage the services of a manager or managing agent, and specifying duties delegated thereto by the board;
- (2) Deleting the prohibition on the provision of collection services for delinquent maintenance fees by condominium managing agents;
- (3) Establishing a prohibition on fee-splitting by any entity contracted by an association of apartment owners to collect delinquent assessments; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3281, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3281, H.D. 1, and be placed on the calendar for Third Reading.



Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 627-98 Consumer Protection and Commerce on H.B. No. 3102**

The purpose of this bill is to repeal the bulk sales provisions of the Uniform Commercial Code.

The Hawaii Commission on Uniform State Laws testified in support of the bill. The Hawaii Bankers Association testified in opposition to the bill.

It is your Committee's understanding that the bulk transfer laws were originally enacted to discourage a once prevalent type of fraud where a merchant would acquire his stock in trade on credit, sell his entire inventory, and then abscond with the proceeds, leaving creditors unpaid and with the burden of proving the purchaser assumed existing debts.

Your Committee finds that changes in the way business is conducted and in the laws governing the retail industry have made regulation of bulk sales unnecessary. Creditors are protected by the Uniform Fraudulent Transfer Act in the event that a bulk sale is fraudulent and the purchaser is party to the fraud.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3102, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 628-98 Consumer Protection and Commerce on H.B. No. 2812**

The purpose of this bill is to improve the enforcement of time sharing practices by clarifying who is required, and when a person must wear a time share identification badge.

Supportive testimony was received by the Department of Commerce and Consumer Affairs and a concerned individual.

It is your Committee's understanding that there are numerous instances where both time share and activity desk activities are concurrently being marketed from one location. This measure requires identification badges to be worn during those situations where the activity desk marketing an activity may also be marketing or possibly veiling a time share activity and currently, not subject to the identification badge provisions.

Your Committee supports the regulation of the time sharing sales industry and finds that this measure will assist with the enforcement policies of the Regulated Industries Complaints Office.

Upon careful consideration, your Committee has amended this bill by:

- (1) Clarifying the term "off-premises" to include sites required to be registered with the Department of Commerce and Consumer Affairs;
- (2) Deleting the statutory reference to section 514E-1, Hawaii Revised Statutes, since "activity" is not listed among the definitions; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2812, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2812, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.

**SCRep. 629-98 Consumer Protection and Commerce on H.B. No. 2808**

The purpose of this bill is to improve regulation of escrow depositories by extending the period a license may be suspended from two years to five years and authorizing the Commissioner of Financial Institutions (Commissioner) to revoke or suspend the license of any licensed escrow depository who:

- (1) Engages in an unsafe or unsound practice that is likely to cause insolvency or substantial loss of assets or earnings for the escrow depository;
- (2) Fails to maintain books and records that are sufficiently complete and accurate so as to be used by the Commissioner to determine the financial condition of the escrow depository; and
- (3) Ceases to engage in business for which the escrow depository is licensed for a period of six consecutive months or more.

The Department of Commerce and Consumer Affairs commented on the measure.

Your Committee finds that this measure will protect consumers by aligning the enforcement standards of escrow depository companies with the enforcement standards of other financial institutions regulated under the Code of Financial Institutions.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2808, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2808, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.

**SCRep. 630-98 Consumer Protection and Commerce on H.B. No. 3290**

The purpose of this bill is to continue regulating activity desks and activity providers by repealing the sunset dates from Act 214, Session Laws of Hawaii 1990 (Act 214) and Act 231, Session Laws of Hawaii 1992 (Act 231).

The Department of Commerce and Consumer Affairs commented on the bill. Several private companies and concerned individuals testified in support of this measure.

Your Committee believes that by repealing the sunset provisions of Act 214 and Act 231, this measure will provide safeguards which ensure that viable activity desks and activity providers are providing quality services. Further, this measure will also provide continuing protection for activity providers from potential irregularities in the commercial operation of activity desks.

Your Committee has amended this bill by making technical, nonsubstantive amendments to ensure the effective date of this bill occurs prior to the repeal of Act 214 and Act 231.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3290, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.  
(Representative Whalen voted no.)

**SCRep. 631-98 Consumer Protection and Commerce on H.B. No. 2964**

The purpose of this bill is to exempt any boxing event held by the Police Activities League (PAL) from regulation by the Hawaii State Boxing Commission (Commission).

Supportive testimony was received from the Honolulu Police Department, the Hawaii State Boxing Commission, and several concerned individuals.

Your Committee finds that the PAL youth boxing program (program) has successfully achieved its goal of reaching Hawaii's youth and teaching them discipline, good sportsmanship, dedication, and self-esteem, without regulation by the Commission. As of January 22, 1998, the Commission established a policy exempting the program from mandatory membership with United States Amateur Boxing, Inc., and allowing PAL to continue independent operation of the program. Amending the Hawaii Revised Statutes would ensure PAL's continued independence from the Commission.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2964, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2964, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 632-98 Consumer Protection and Commerce on H.B. No. 2831**

The purpose of this bill is to make certain changes in sections 435C-2, 435C-4, and 435C-5, Hawaii Revised Statutes, (HRS) governing the Hawaii Medical Malpractice Underwriting Plan (Plan) to:

- (1) Correctly identify the page of the annual statement to which the definition of "net direct premiums" refers;
- (2) Update the statutory citations relating to insurance rate regulation; and

- (3) Clarify that only servicing carriers, and not all members of the Plan, will write medical malpractice insurance under the Plan.

Supportive testimony was received by the Department of Commerce and Consumer Affairs.

Section 435C-3, HRS, currently provides that servicing carriers will be appointed to write medical malpractice insurance. Section 435C-5, HRS, however, appears to contradict section 435C-3, by allowing all members of the Plan to write insurance. Section 435C-5 also appears to contradict other provisions of the insurance law; a few of the group of casualty insurers that comprise the full membership of the Plan are restricted by law to writing a single line of insurance, and may not write medical malpractice insurance. Your Committee finds that this measure will help to clarify the provisions of the Plan and resolve these apparent conflicts in the insurance laws.

Your Committee has amended this bill by making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2831, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2831, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 633-98 Consumer Protection and Commerce on H.B. No. 2829**

The purposes of the bill are to:

- (1) Clarify the annual statement and audited statement requirements for association and risk retention captive insurers; and
- (2) Require that association and risk retentive captive insurers file an annual risk-based capital report.

Supportive testimony was received by the State Insurance Division, Marsh and McLennan, Inc., and Hawaii Captive Insurance Management, Inc. The Hawaii Captive Insurance Council (HCIC) testified in support of the bill and proposed an amendment.

The bill's provisions set forth with greater clarity and detail than exists in current law the annual statement and audit requirements for association and risk retention captive insurers. Additionally, the bill requires that association and risk retention captive insurers file annual risk-based capital reports. These reports will assist the Insurance Division in examining and monitoring the adequacy of a captive's capital and surplus.

Your Committee has amended the bill as suggested by HCIC by:

- (1) Clarifying that the actuarial opinion for association and risk retention captive insurers shall be filed with the annual statement due on or before March 1 of each year; and
- (2) Making technical, nonsubstantive amendments for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2829, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2829, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 634-98 Consumer Protection and Commerce on H.B. No. 2678**

The purpose of this bill is to allow for increased economic development in the State through business expansion opportunities by raising the maximum production limit for brewpubs from five thousand to ten thousand barrels of malt beverages annually.

The City and County of Honolulu Liquor Commission submitted testimony supporting the increase in the number of barrels of malt beverages that may be produced by a brewpub annually.

Your Committee believes that giving brewpubs more regulatory flexibility in selling and producing their products will enable brewpubs to expand and develop their businesses and meet consumer demand for their product.

Your Committee has amended this bill by making technical, nonsubstantive amendments to correct drafting errors and for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2678, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2678, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 635-98 Consumer Protection and Commerce on H.B. No. 3393**

The purpose of the bill is to require that an independent certified public accountant performing an audit of a captive insurance company's statement of financial condition be certified in the business of captive insurance by an approved educational institution or organization approved by the Insurance Commissioner.

Marsh and McLennan, Inc., and the Hawaii Captive Insurance Management, Inc., testified in support of the bill. The State Insurance Division testified in opposition to the measure. The Hawaii Captive Insurance Council (HCIC) testified in support of the bill's intent and proposed amendments.

While your Committee agrees with the bill's intent that audits of captive insurance companies should be performed by qualified and knowledgeable certified public accountants, it has concerns that this measure may not effectuate this purpose. The State Insurance Division testified that it is not aware of the existence of programs in auditing captive insurers. Further, it may be more appropriate to have certification in the area of captives auditing granted by the Insurance Commissioner rather than an educational institution or other organization.

In view of these concerns, your Committee has amended this bill by deleting its substance and inserting therein, language proposed by HCIC that gives the Insurance Commissioner the authority to approve service providers to captive insurance companies. "Service providers", as amended, includes not only independent certified public accountants, but captive insurance managers, actuaries, loss reserve specialists, and other specialists.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3393, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3393, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Saiki, Tom, Yoshinaga and Pendleton.

**SCRep. 636-98 Consumer Protection and Commerce on H.B. No. 3467**

The purpose of this bill is to improve the administration of liquor licenses and permits by:

- (1) Specifying that limited liability companies are subject to the intoxicating liquor licensing and regulatory provisions; and
- (2) Authorizing the Liquor Commission to adopt rules to allow registered educational or charitable nonprofit organizations, political candidates, or political organizations to sell liquor intended for off-site consumption for fundraising purposes.

Supportive testimony was received by the City and County of Honolulu Liquor Commission and the Department of Liquor Control for the County of Maui.

It is your Committee's understanding that nonprofit organizations will often receive liquor as donations in lieu of cash donations. Your Committee finds that the provisions in this measure are necessary to allow the sale or auction of these liquor donations for fundraising purposes, especially if the organization does not wish to allow liquor consumption at the fundraising event, or if the liquor being sold or auctioned is normally collected for consumption on special occasions, for example, rare bottles of wine.

Your Committee believes that the most common occurrences of liquor sales or auctions for fundraising purposes are among nonprofit organizations and has removed political candidates and political organizations from the exemption created by the bill. Under this bill, nonprofit organizations will be able to sell liquor intended for off-site consumption and in original manufacturer packaging under a one-day special licensing for fundraising events.

Your Committee has amended this bill by:

- (1) Removing the exemption of political candidates and political organizations from licensing provisions for the sale or auction of liquor for fundraising purposes; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3467, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 637-98 Consumer Protection and Commerce on H.B. No. 3392**

The purpose of the bill is to authorize a captive insurance company to engage in the business of accident and sickness insurance.

Aon Insurance Managers and Marsh and McLennan, Inc. testified in support of the bill. The State Insurance Division testified in opposition to the bill. The Hawaii Captive Insurance Council (HCIC) submitted comments and an amendment to the bill.

A captive insurance company is presently authorized to write all casualty insurance pursuant to section 431:19-102(h)(1), Hawaii Revised Statutes (HRS). Under section 431:1-209, HRS, general casualty insurance includes disability insurance, and disability insurance is described in section 431:1-205, HRS, as accident and sickness insurance. Therefore, it appears that captive insurance companies are already authorized to write accident and sickness insurance.

Further, your Committee recently recommended passage of H.B. No. 2672, H.D. 1, that amends section 431:19-102(h), HRS, to allow a captive insurance company to engage in "such other lines of insurance that the commissioner may allow." Therefore, this measure is unnecessary.

However, HCIC proposed a housekeeping amendment to the bill that clarifies the definition of "captive insurance company" and is supported by the Insurance Division. Accordingly, your Committee has amended the bill by:

- (1) Deleting its substantive contents and inserting therein an amendment to section 431:19-101, HRS, that expressly includes a risk retention captive insurance company within the definition of "captive insurance company"; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3392, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3392, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Saiki, Tom, Yoshinaga and Pendleton.

**SCRep. 638-98 Consumer Protection and Commerce on H.B. No. 2458**

The purpose of this bill is to assign primary responsibility for property damage sustained while driving a rented motor vehicle to the negligent driver by specifying that the U-drive motor vehicle insurance policy be secondary to the negligent driver's property damage liability coverage.

Supportive testimony was received from Republic Industries, Inc. Catrala-Hawaii testified in support of the measure with a suggested amendment. State Farm Insurance Companies and the Hawaii Insurers Council testified in opposition to the bill. The Department of Commerce and Consumer Affairs submitted comments.

Those in favor of this bill testified that this bill, by making the negligent driver pay for damages, would help to lower the cost of doing business in Hawaii for rental companies. Your Committee believes that this measure merits further discussion.

In order to avoid possible confusion, your Committee has amended this bill by deleting the term "collision", since further clarification of property damage liability coverage is not needed.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2458, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2458, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tom and Yoshinaga.  
(Representative Pendleton voted no.)

**SCRep. 639-98 Consumer Protection and Commerce on H.B. No. 2827**

The purposes of the bill is to:

- (1) Clarify that licensure in this State is required for a person:
  - (a) Selling an insurance product or engaging in insurance adjusting ultimately destined for this State; and
  - (b) Acting or appointed as, or holding oneself out to be a general agent, subagent, solicitor, or adjuster; and
- (2) Clarifies that the appointment, revocation, or termination of a general agent, subagent, or solicitor is deemed effective as of the date designated in the notice required to be sent to the Insurance Commissioner (Commissioner), or if the notice is not received by the Commissioner within fifteen days of the designation, on the date of receipt.

The State Insurance Division (Division) testified in favor of the bill and suggested an amendment. The Hawaii Independent Insurance Agents Association testified in support of the measure.

The proposed amendments to the Insurance Code provide certainty as to the need for State licensure for persons engaging in insurance sales or adjusting outside of the State and provide the Division with authority to pursue unlicensed activity. Additionally, determination of the effective date for an appointment, or revocation or termination thereof, of a general agent, subagent, or solicitor, is clarified by this measure.

Your Committee has amended the bill as requested by the State Insurance Division to provide that notice of an appointment of a solicitor shall be mailed by the Insurance Commissioner to the appointing general agent, subagent, or domestic insurer, rather than to the licensee.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2827, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2827, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 640-98 Consumer Protection and Commerce on H.B. No. 2502**

The purpose of the bill is to allow more charitable organizations to offer charitable gift annuities in the State by expanding the definition of a nonprofit organization in section 431:1-204, Hawaii Revised Statutes, to include tax-exempt charitable organizations:

- (1) With a minimum net worth in the State of \$5,000,000, or a minimum total net worth in and out of the State of \$10,000,000; and
- (2) That maintain a segregated annuity fund with assets at least equal to the sum of the reserves on outstanding annuities plus a surplus of ten percent of the reserves.

Testimony in support of the bill was received from: March of Dimes Birth Defects Foundation, Chapter of the Pacific; American Cancer Society, Hawaii Pacific Division, Inc.; American Heart Association, Hawaii Affiliate; American Council On Gift Annuities; MSA; and interested individuals. The State Insurance Division testified in opposition to the bill.

Charitable gift annuities allow individuals to make a gift to a charity in exchange for a tax deduction and a guaranteed life income. Current State law provides that charitable gift annuities are excluded from the definition of "life insurance" if the nonprofit organization issuing the annuity, in addition to other requirements, has a minimum net worth in the State of \$5,000,000, and maintains a separate annuity fund containing at least one-half of the value of the annuity.

Your Committee finds that the in-state-only net worth requirement unduly restricts Hawaii residents from obtaining a charitable gift annuity as a means of supporting the work of numerous reputable national charities, and your Committee therefore supports the expansion of the net worth requirement to include out-of-state assets.

However, your Committee does not find that amending the annuity fund requirement, intended to protect the financial interests of annuitants, establishes adequate safeguards because there are no minimal reserve requirements for charitable gift annuities in the law. Accordingly, the bill has been amended by retaining the law's current requirement that a charitable organization maintain an annuity fund of at least one-half of the annuity's value.

Your Committee recognizes that these changes to the law may only be temporary in nature as it is aware that the National Association of Insurance Commissioners has drafted a charitable gift annuity model law that may be proposed for adoption in this state by the Insurance Division during the next legislative session.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2502, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2502, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 641-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2331**

The purpose of the bill is to require that a condominium project or association of apartment owners (AOAO) disclose on its registration application with the Real Estate Commission, the names and positions of the officers of the AOAO, and the name, address, and phone number of a designated contact person for the AOAO.

Comments and proposed changes to the bill were submitted by the Real Estate Commission (Commission) and the Community Associations Institute. Several individuals submitted testimony in support of the measure.

Currently, the law requires that a registration application disclose the names and positions of persons who handle the funds for an AOAO, and the names, addresses, and phone numbers of the officers of the AOAO. Proponents of the bill testified that a change in the type of public information required to be disclosed on the registration application is necessary because individuals who handle AOAO funds or serve as its officers are subject to loss of privacy and are potentially the target of threats from disgruntled apartment owners.

The Commission testified that the public information requirements were enacted because of the Commission's need to verify with an individual responsible for handling the AOAO's funds, the AOAO's compliance with the fidelity bond requirement, and in response to complaints from apartment owners who were unable to determine the identity of their AOAO officers or who were unable to make contact with their officers.

Your Committees find that the privacy interests of an AOA's officer must be weighed against the rights of apartment owners, the Commission, and the public to accountability and accessibility. Accordingly, your Committees have amended the bill by:

- (1) Requiring that the name and current postal address of a designated officer of an AOA, rather than the name, address, and phone number of a designated contact person for the AOA, be disclosed on the association's registration application with the Commission; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2331, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2331, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Case, Jones and Thielen.

**SCRep. 642-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2825**

The purpose of this bill is to improve enforcement of motor vehicle insurance fraud by, among other things:

- (1) Aligning the penalties of motor vehicle insurance fraud offenses with the Penal Code;
- (2) Authorizing the insurance fraud investigation units to seek declaratory and injunctive relief from ongoing insurance fraud violations;
- (3) Making insurance fraud an offense giving rise to forfeiture;
- (4) Authorizing the attorneys of the insurance investigation units to represent the State in legal proceedings;
- (5) Providing immunity from civil and criminal penalties to any person who shares information with other insurance providers if the information is intended to help prevent or investigate insurance fraud;
- (6) Requiring insurers to warn applicants and claimants that insurance fraud is a crime by placing prominent notices on all application and claim forms; and
- (7) Limiting the fees that financial institutions may charge for researching and reproducing records in response to a subpoena issued in an insurance fraud investigation.

The Department of Commerce and Consumer Affairs and State Farms Insurance Companies testified in support of the measure with suggestions for amendments. The Consumer Lawyers of Hawaii testified in support of the purpose and intent of the bill.

As a result of Act 251, Session Laws of Hawaii 1997 (Act 251), motor vehicle insurance fraud was designated a criminal offense and an insurance fraud investigative unit was established to investigate and prosecute insurance fraud offenders. Your Committees find that this measure will strengthen the insurance fraud provisions established by Act 251 which would improve the enforcement of motor vehicle insurance laws, reduce insurance fraud occurrences, and thereby, reduce the cost of motor vehicle insurance rates for Hawaii's consumers.

Your Committees agree with the Insurance Commissioner's testimony that Section 431:10C-307.7(d), Hawaii Revised Statutes, which provides civil and criminal immunity to anyone providing information to law enforcement authorities regarding suspected, anticipated, or completed insurance fraud, may unintentionally provide immunity to an insurance fraud offender who discloses to authorities involvement in fraudulent activities. Accordingly, your Committees have amended this bill by:

- (1) Clarifying that immunity provided for the disclosed information of fraudulent activity is from civil penalties, not criminal penalties;
- (2) Clarifying that although insurance providers must notify applicants that insurance fraud is a crime punishable by fines or imprisonment, or both, the location of this statement would be left up to the discretion of the insurance provider; and
- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2825, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2825, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Tom, Yoshinaga and Thielen.

**SCRep. 643-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3389**

The purpose of this measure is to require that insurers establish and maintain a properly staffed Hawaii claims office or utilize an independent adjusting claims service in Hawaii as its claim agent.

Testimony was submitted by Consumer Lawyers of Hawaii, the Department of Commerce and Consumer Affairs, State Farm, and the Reinsurance Association of America.

Supportive testimony submitted by Consumer Lawyers of Hawaii and the Department of Commerce and Consumer Affairs indicated that this important consumer protection measure is expected to allow Hawaii consumers to receive prompt and fair claims assistance within the State.

The Reinsurance Association of America submitted testimony recommending that this measure be amended to exempt reinsurers from the requirement to establish a claims service office or engage an independent adjusting service since reinsurers have no direct relationship to the policyholder.

In addition, the Department of Commerce and Consumer Affairs requested that an amendment be made to change the measure's effective date from July 1, 1998 to January 1, 1999 to permit insurers time to establish a claims office in Hawaii.

Further discussion on this measure indicated the need to include language defining the phrase "complete claims service office" for the purpose of clarification.

After careful consideration of the merits of the measure as well as the testimonies received, your Committees have amended this measure by:

- (1) Specifying that the requirement proposed by this measure apply to insurers "writing direct business" thereby excluding reinsurers;
- (2) Amending the effective date of the bill from July 1, 1998 to January 1, 1999 to allow insurers adequate time to establish a claims office in Hawaii;
- (3) Adding the definition of a "complete claims service office" for the purpose of clarification; and
- (4) Making technical, nonsubstantive revisions for purposes of style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3389, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3389, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Tom, Yoshinaga and Thielen.

**SCRep. 644-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2423**

The purpose of this bill is to provide temporary tort immunity for insurance agents, subagents, solicitors, or brokers against acts of simple negligence committed during the placement or renewal of policyholder applications for motor vehicle insurance.

Supportive testimony was received by the Hawaii Independent Insurance Agents Association and a private insurance agency. State Farm Insurance Companies and the Hawaii Insurers Council supported the measure with suggestions for amendments. The Consumer Lawyers of Hawaii testified in opposition to the measure. The Department of Commerce and Consumer Affairs deferred to the Legislature and took no position on the measure.

Your Committees believe that the extensive changes occurring in the laws governing the motor vehicle insurance industry require an adjustment period for both policyholders and policy carriers. While the Insurance Commissioner has provided excellent public education regarding these changes, there remains a significant amount of information which must be comprehended and subsequently evaluated for the public to be able to utilize the new provisions to their advantage.

Although your Committees recognize the concerns raised by opponents to this measure, your Committees believe that providing temporary tort immunity to insurance agents, subagents, solicitors, and brokers during this transitional period will allow them to work through the new laws and the changes in the laws governing motor vehicle insurance to maximize the benefits passed on to the policyholders.

Your Committees agree with the testimony of the Hawaii Insurers Council and have amended this measure by clarifying the listing of "agent" to "general agent" as defined in Chapter 431, Article 9, Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2423, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2423, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Tom, Yoshinaga and Thielen.  
(Representative Pendleton voted no.)

**SCRep. 645-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3181**

The purpose of this measure is to:



- (1) Allow for the establishment of a liquor control adjudication board by charter in order to hear complaints and violations; and
- (2) Impose penalties for violations of State liquor laws and County liquor rules.

Supportive testimony was submitted by the Department of Liquor Control for the Counties of Maui and Kauai, the Hawaii Restaurant Association, and Anheuser-Busch Companies. The Liquor Commission for the City and County of Honolulu submitted comments.

Testimony indicated that this measure will allow for the recognition of the Liquor Control Adjudication Boards established by county charter as they currently exist, and will provide these boards with the jurisdiction to conduct hearings and impose penalties for violations of State liquor laws and respective County liquor rules. The enactment of this measure is expected to provide a mechanism whereby appropriate penalties for violations may be imposed in each county.

The Liquor Commission for the City and County of Honolulu submitted testimony indicating that since the measure allows but does not mandate that each county create a Liquor Control Adjudication Board, language in the measure should clarify that the creation of such a board is an option for each county and proposed an amendment to this effect.

After careful consideration of the testimony provided, your Committees have amended the measure by:

- (1) Replacing the word "shall" with the word "may" in section 281-11, subsection (a), Hawaii Revised Statutes, for purposes of clarifying that the creation of a Liquor Control Adjudication Board is optional for each county; and
- (2) Making technical, nonsubstantive revisions for purposes of clarity, style, and consistency.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3181, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3181, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Tom, Yoshinaga and Thielen.

**SCRep. 646-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2669**

The purposes of the bill are to:

- (1) Amend the definition of "holding period" within Chapter 445, Hawaii Revised Statutes (HRS), to mean ninety days after a pawn transaction's maturity date;
- (2) Require the county police chiefs to perform background checks on an applicant for a pawnbroker's or secondhand dealer's license;
- (3) Make the recordkeeping requirements for secondhand dealers consistent with those for pawnbrokers; and
- (4) Increase from ten to ninety working days the retention period during which pawnbrokers and secondhand dealers would be prohibited from altering precious and semiprecious gems and metals, and required to retain purchased or received articles.

Testimony on the bill was submitted by the Honolulu Police Department, the Hawaii Pawnbrokers Association (HPA), the Office of Consumer Protection, and interested individuals.

Testimony from law enforcement indicated that they should not be responsible for conducting background checks on pawnbroker and secondhand dealer license applicants for reasons including the lack of personnel to perform this duty, a potential conflict of interest since licensees are subject to criminal investigations, and the current ability of the State to obtain this information through its Criminal Justice Data Center. HPA raised concerns about increasing the holding and minimum retention periods to ninety days, stating that it would result in increased expenses and expanded liability for its members, and encourage noncompliance with the law. Therefore, upon careful consideration, your Committees have amended the bill by:

- (1) Deleting the amendments to:
  - (a) Section 445-131, HRS, establishing the definition of "holding period" to mean ninety days after the maturity date of the pawn transaction;
  - (b) Sections 445-132 and 445-171, HRS, requiring the chief of police to perform a background check on applicants for a pawnbroker's license and secondhand dealers, respectively; and
  - (c) Section 445-134.12, HRS, requiring pawnbrokers to hold unredeemed pledged goods for ninety days after the pawn transaction maturity date;
- (2) Setting the minimum nonalteration/retention period for precious and semiprecious metals and gems, and articles, purchased or received by a pawnbroker or secondhand dealer, at thirty calendar days;
- (3) Revising the purpose section of the bill to reflect the changes to the bill; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2669, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2669, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hiraki, Tom, Yoshinaga and Thielen.

**SCRep. 647-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2821**

The purpose of the bill is to clarify the authority of and establish procedures for the Office of Consumer Protection to serve and enforce investigative subpoenas against out-of-state respondents.

The Office of Consumer Protection (OCP) testified in support of the bill.

Currently, section 487-9, Hawaii Revised Statutes, authorizes OCP to issue investigative subpoenas "in accordance with the rules of court". However, the various rules of court utilized by Hawaii's courts establish differing requirements for the issuance of subpoenas. For example, Rule 45 of the Hawaii Rules of Civil Procedure limits service of a subpoena to any place "within" the State. This rule effectively precludes investigations by OCP into consumer protection violations by businesses operating physically outside the borders of the State, but directing advertising, telemarketing, or other activity within the State.

This measure specifically authorizes the service of a subpoena outside the State and establishes specific requirements for service.

Your Committees have made technical, nonsubstantive amendments to the bill for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2821, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2821, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Jones, Saiki, Tom, Yoshinaga, Pendleton and Thielen.

**SCRep. 648-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2809**

The purpose of this measure is to provide the Commissioner of Financial Institutions with necessary and appropriate enforcement powers, including the authority to issue cease and desist orders and to impose administrative fines, against persons other than Hawaii financial institutions and institution-affiliated parties.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

Testimony indicated that this administrative measure will remedy an inadvertent omission of specific enforcement powers authorized to the Commissioner with respect to unlicensed persons, which are comparable in kind to the remedies currently utilized to enjoin similar prohibited activity by licensed Hawaii financial institutions and institution-affiliated parties. Therefore, by providing the Commissioner with recourse for violations by unlicensed persons, the department will be better equipped to deter unlicensed activity and assure compliance with the law.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2809 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Jones, Saiki, Tom, Yoshinaga, Pendleton and Thielen.

**SCRep. 649-98 Finance on H.B. No. 3045**

The purpose of this bill is to clarify that the intent of the general excise tax exemption for aircraft servicing and maintenance facilities is to encourage companies to build and operate aircraft maintenance facilities in Hawaii and in turn encourage employment for:

- (1) Construction workers and suppliers during construction; and
- (2) Highly skilled airline mechanics and technicians upon completion.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii and Aloha Airlines commented on this measure.

Your Committee has amended this bill by:

- (1) Limiting the size of an aircraft service and maintenance facility to not less than thirty thousand square feet in area; and
- (2) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3045, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3045, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.

**SCRep. 650-98 Consumer Protection and Commerce on H.B. No. 2626**

The purpose of this bill is to improve regulation of occupational therapists by requiring all occupational therapists and occupational therapist assistants to conform to certification requirements of the National Board for Certification in Occupational Therapy.

The State Auditor testified in support of this bill.

Your Committee has made technical, nonsubstantive amendments to this bill for purposes of consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2626, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2626, H.D. 1.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.

**SCRep. 651-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2767**

The purpose of this bill is to improve regulation of measurement standards by:

- (1) Adding a new definition of "retail;"
- (2) Reclassifying certain acts prohibited under Chapter 486, Hawaii Revised Statutes, and subject to civil penalties, as criminal, petty misdemeanors in order to allow them to be handled by citation;
- (3) Authorizing the Department of Agriculture (DOA) to license service agencies to test measurement standards and measuring devices;
- (4) Authorizing the DOA to adopt rules establishing procedures for price verification;
- (5) Clarifying that the misrepresentation of price includes situations where there is a difference between the price displayed and the price charged to the consumer; and
- (6) Making housekeeping amendments, including one that reflects a DOA organizational change that renamed the Division of Measurement Standards, the Measurement Standards Branch.

Supportive testimony was received from the DOA. The Hawaii Food Industry Association testified in support of the measure and suggested amending the bill to clarify that the acts subject to criminal sanctions are those which are "knowing and intentional."

Your Committees support any effort to protect the consumer from deceptive product representation and believe that this measure will assist DOA in its effort to regulate measurement standards.

Your Committees have amended this bill by:

- (1) Clarifying that the acts subject to criminal sanctions are limited to those which are intentional or knowing; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2767, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2767, H.D. 1.

Signed by all members of the Committees except Representatives Hiraki, Tom, Yoshinaga and Thielen.

**SCRep. 652-98 Finance on H.B. No. 3531**

The purpose of this bill is to strengthen the State's environmental policy by:

- (1) Transferring the Office of Environmental Quality Control (OEQC) to the Department of Business, Economic Development, and Tourism;
- (2) Establishing criteria for public policy decision-making regarding environmental protection matters; and
- (3) Requiring the submittal of reports to the Legislature on various environmental special and revolving funds.

The University of Hawaii Environmental Center commented on the measure. The Department of Health (DOH), the Department of Budget and Finance, and the Sierra Club, Hawaii Chapter, testified in opposition to the measure.

Your Committee has amended this bill by deleting its substance and inserting the substance of H.B. No. 3531. As amended, this bill eases DOH's budgetary constraints by:

- (1) Abolishing the State Health Planning and Development Agency; and
- (2) Transferring the functions of OEQC to DOH.

Your Committee notes that the amended bill requires further amendments to conform numerous statutory provisions to the provisions in the bill. However, in the interest of further discussion, your Committee finds the bill as drafted presents all the issues necessary and can be amended before finalization.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3531, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3531, H.D. 3.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 653-98 Finance on H.B. No. 3340**

The purpose of this bill is to amend the wording relating to the amount of the special mortgage recording fee which is deposited into the Hawaiian Hurricane Relief Fund by deleting the word "of" and adding the word "or" to read, "an amendment or refinancing of a mortgage."

The Mortgage Bankers Association of Hawaii and the Estate of James Campbell testified in support of this measure. The Department of Commerce and Consumer Affairs and the Department of Housing and Community Development commented on this measure.

Your Committee made technical, nonsubstantive amendments to the bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3340, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3340, H.D. 1.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.

**SCRep. 654-98 Finance on H.B. No. 2496**

The purpose of this bill is to ensure continued support for indigent services by:

- (1) Extending the sunset date for surcharges on circuit court filings for indigent legal services; and
- (2) Requiring the Office of Community Services (OCS), rather than the Commission on Access to Justice (Commission), to:
  - (a) Review the Filing Fee Surcharge Program (Program); and
  - (b) Submit an annual report to the Legislature on whether the Program is meeting the civil legal needs of indigent persons.

The Hawaii State Bar Association, the Legal Aid Society of Hawaii, the Native Hawaiian Legal Corporation, Na Loio No Na Kanaka, Protection and Advocacy Agency of Hawaii, and Hawaii Lawyers Care testified in support of this measure. The Judiciary and the Domestic Violence Clearinghouse and Legal Hotline commented on this measure.

Your Committee has amended this bill by deleting the change from the Commission to OCS.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2496, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2496, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.

**SCRep. 655-98 Finance on H.B. No. 3005**

The purpose of this bill is to make technical and housekeeping amendments to Chapter 201G, which will take effect and be codified in the Hawaii Revised Statutes on July 1, 1998; and Act 350, Session Laws of Hawaii 1997, which establishes Chapter 201G, both relating to the Housing and Community Development Corporation of Hawaii (HCDCH).

The Board of Water Supply of the City and County of Honolulu submitted testimony in support of this measure. A concerned individual submitted testimony in support of the intent of this measure. The Office of the Governor submitted comments.

Your Committee has amended this measure by:

- (1) Allowing HCDCH to develop or construct public or semi-public facilities on lands being developed by the Housing Finance and Development Corporation or on state-owned land for the public benefit; and

- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3005, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3005, H.D. 2.

Signed by all members of the Committee.

**SCRep. 656-98 Finance on H.B. No. 3445**

The purpose of this bill is to authorize special purpose revenue bonds not to exceed \$200,000,000 for the planning, design, and construction of a correctional complex, along with related infrastructure facilities, in the Ka'u district on the island of Hawaii.

The Hawaii Operating Engineers Industry Stabilization Fund, Hui 'Enekinia Hawaii, and an individual submitted testimony in support of this measure. The Department of Public Safety submitted testimony opposing this measure. The Department of Budget and Finance, the Department of the Attorney General, and an architectural firm submitted comments.

Your Committee has amended this measure by:

- (1) Reducing the authorized issuance of special purpose revenue bonds to an amount not to exceed \$100,000,000 conditioned on the construction of a correctional complex in Ka'u;
- (2) Emphasizing that the bonds' issuance is for the construction of the cogeneration plant;
- (3) Effectuating this Act upon its approval; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3445, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3445, H.D. 2.

Signed by all members of the Committee.

**SCRep. 657-98 Finance on H.B. No. 2888**

The purpose of this bill is to compensate victims of criminal injuries or their service providers by appropriating \$1,187,475 to the Criminal Injuries Compensation Fund (Fund).

The Criminal Injuries Compensation Commission, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Sex Abuse Treatment Center submitted testimony in support of this measure.

Your Committee has amended this measure by:

- (1) Providing that funds awarded to inmates pursuant to H.B. No. 2771 (1998), relating to the relief of certain persons' claims against the State, be deposited into the Fund; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2888, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2888, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.

**SCRep. 658-98 Finance on H.B. No. 1332**

The purpose of this bill is to support the agriculture industry in Hawaii by:

- (1) Adding the Chairperson of the Board of Agriculture as a member of the Commission on Water Resource Management;
- (2) Requiring the Department of Agriculture to prepare a water use and development plan as part of the Hawaii Water Plan; and
- (3) Requiring the Commission on Water Resource Management to condition permits to avoid interference with existing legal uses of water and existing water system infrastructure.

The Hawaii Farm Bureau Federation and the Big Island Farm Bureau testified in support of this measure. The Department of Agriculture and the Honolulu Board of Water Supply testified in support of the intent of this measure. The Department of Land and Natural Resources, the Hawaii Audubon Society, the Hawaii Chapter of the Sierra Club, Hawaii's Thousand Friends, the Environmental Center of the University of Hawaii at Manoa, the Office of Hawaiian Affairs, and an individual testified in opposition to this measure.

Your Committee has amended the bill by:

- (1) Requiring the Department of Agriculture to create a Master Irrigation Inventory Plan;
- (2) Requiring the Chairperson of the Board of Agriculture to submit the Master Irrigation Inventory Plan to the Legislature before the 1999 legislative session; and
- (3) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1332, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1332, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.  
(Representative Meyer voted no.)

**SCRep. 659-98 Finance on H.B. No. 2874**

The purpose of this bill is to amend ocean leasing statutes to encourage the development of open ocean mariculture for commercial activities.

The Department of Business, Economic Development, and Tourism, the Hawaii Aquaculture Association, and members of the public testified in support of this bill. The Board of Land and Natural Resources and Black Pearls commented on this measure.

Your Committee has amended this bill by:

- (1) Specifying that "public lands" does not include economic units as defined in section 190D-3, Hawaii Revised Statutes (HRS);
- (2) Defining the term "economic unit" in section 190D-3, HRS, to mean the combination of the water column, submerged lands beneath the water column, and water surface above the water column; and
- (3) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2874, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2874, H.D. 2.

Signed by all members of the Committee except Representatives Abinsay, Ahu Isa and Ward.

**SCRep. 660-98 Finance on H.B. No. 2657**

The purpose of this bill is to:

- (1) Require eligible employee-beneficiaries of the Hawaii Public Employees Health Fund (Fund) to enroll in the federal Medicare plan for voluntary medical insurance coverage; and
- (2) Provide that failure to enroll in the Medicare Voluntary Medical Insurance Plan will make the employee-beneficiary or dependent-beneficiary ineligible to participate in any benefit plan or receive any contribution offered by the Fund.

The Department of Budget and Finance and the Hawaii State Teachers Association testified in support of the intent of the measure. The Hawaii Public Employees Health Fund commented on this measure.

Your Committee has amended this bill by:

- (1) Making the requirement for beneficiaries to enroll in the federal Medicare plan applicable to employee-beneficiaries who join the Fund after June 30, 1999; and
- (2) Making technical, nonsubstantive amendments for clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2657, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2657, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.

**SCRep. 661-98 Finance on H.B. No. 2865**

The purpose of this bill is to increase certain fees to more accurately reflect the cost of providing these vital services to the public by:

- (1) Increasing fees for certified copies of vital records from \$10 to \$11;

- (2) Adding certified copies of divorce certificates to the documents for which the \$11 fee is charged;
- (3) Increasing the marriage license fee from \$25 to \$40; and
- (4) Making permanent certain fee increases from 1997 by repealing the sunset date of June 30, 2000.

The Department of Health and the Hawaii State Commission on the Status of Women supported this bill. The Office of Hawaiian Affairs and an individual testified in opposition.

Your Committee has amended this bill by:

- (1) Waiving the fees for persons statutorily required to demonstrate proof of ancestry when making claims or applying for entitlements; and
- (2) Making technical, nonsubstantive revisions to correct technical drafting errors.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2865, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2865, H.D. 2.

Signed by all members of the Committee.  
(Representative Marumoto voted no.)

**SCRep. 662-98 Finance on H.B. No. 2736**

The purpose of this bill is to ensure that the costs of certain items related to athletics are budgeted for new public schools.

Testimony in support of the bill was submitted by the Department of Education and the Athletic Directors and Coaches Association. The Department of Budget and Finance submitted testimony that did not support the bill.

Technical, nonsubstantive amendments to the bill have been made for reasons of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2736, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2736, H.D. 2.

Signed by all members of the Committee.

**SCRep. 663-98 Finance on H.B. No. 2998**

The purpose of this bill is to create a temporary fifteen-member Maritime Authority Commission to examine the relevant issues and details and then recommend to the Legislature by December 20, 1998, the best way to statutorily create a permanent Hawaii Maritime Authority.

The Department of Transportation, the Chamber of Commerce of Hawaii Maritime Committee, Matson Navigation Company, Inc., and ILWU Local 142 testified in support of this measure. The Department of Business, Economic Development and Tourism, the Board of Land and Natural Resources, and the Hawaii Community Development Authority supported the intent of this bill. The Office of Hawaiian Affairs opposed this measure.

Your Committee has amended the bill by making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2998, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2998, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 664-98 Finance on H.B. No. 3003**

The purpose of this bill is to simplify and facilitate the administration, calculation, and processing of pension payments within the Employees' Retirement System (ERS).

The ERS submitted testimony in support of this measure.

Your Committee has amended this measure by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3003, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3003, H.D. 1.

Signed by all members of the Committee except Representative Ward.

**SCRep. 665-98 Finance on H.B. No. 3141**

The purpose of this bill is to protect service contracts entered into between nonprofit organizations and state and county governments from being voided as a result of the Hawaii Supreme Court's decision in Konno v. County of Hawaii.

Specifically, this bill:

- (1) Authorizes Hawaii nonprofit organizations to enter into contracts with state and county governments;
- (2) Exempts these contracts from civil service, compensation, and collective bargaining laws; and
- (3) Grandfathers in pre-existing contracts to ensure that the provisions of this bill will apply to them.

The Department of the Attorney General, the Judiciary, the Hawaii County Economic Opportunity Council, Consulting Engineers Council of Hawaii, the Maui Hotel Association, the American Institute of Architects Hawaii State Council, Ka Lima O Maui, Opportunities for the Retarded, the Hawaii Chapter of the Associated Builders and Contractors, Kona Krafts, Goodwill Industries of Hawaii, the Mayor of the County of Maui, the Lanakila Rehabilitation Center, a Hawaii County Councilmember, and Network Enterprises testified in support of this measure.

The Department of Human Resources Development submitted testimony in support of the intent of this measure. The United Public Workers and the Hawaii Government Employees Association testified in opposition to this measure.

Your Committee has amended this measure by:

- (1) Redefining "nonprofit organization" to mean an entity that has received nonprofit, rather than charitable, status under the Internal Revenue Code of 1986;
- (2) Unequivocally and clearly indicating that this measure will have retroactive effect on contracts already in effect; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3141, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3141, H.D. 1.

Signed by all members of the Committee except Representative Ward.

**SCRep. 666-98 Finance on H.B. No. 2366**

The purpose of this bill is to authorize the Department of Transportation (DOT) to implement an intra-island water ferry transportation system (System) to transport commuters from Leeward Oahu to the downtown Honolulu business district.

The Department of Business, Economic Development, and Tourism and members of the public testified in support of this bill. The DOT and the Department of Land and Natural Resources submitted testimony in support of the intent of this measure. The Leeward Oahu Transportation Management Association and the Chamber of Commerce of Hawaii commented on this measure.

Your Committee has amended this bill by:

- (1) Specifying that the System's landings along the southern coast of Oahu must be integrated with existing ground transportation; and
- (2) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2366, H.D. 1, as amended herein, and recommends that it pass third Reading in the form attached hereto as H.B. No. 2366, H.D. 2.

Signed by all members of the Committee except Representatives Chang and Kahikina.

**SCRep. 667-98 Judiciary on H.B. No. 2460**

The purpose of this bill is to add Nawiliwili Harbor to the sites where fishing with draw, drag, or seine nets are prohibited.

The Board of Land and Natural Resources commented on the bill.

Your Committee finds that section 188-34, Hawaii Revised Statutes, was established to prevent navigational hazards to vessels in State harbors. Fishing nets could seriously impair maritime traffic within a harbor. Your Committee believes that this measure will facilitate commerce as well as provide added safety to persons using the harbor.

Your Committee has amended this bill by adding Kahului Harbor to the list of protected sites.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2460, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2460, H.D. 2.



Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 668-98      Judiciary on H.B. No. 3289**

The purpose of this bill is to provide hotelkeepers with protection from liability for injury, death, or property damage resulting from the use of recreational equipment provided by a hotelkeeper.

Outrigger Enterprises Inc., and the Hawaii Hotel Association testified in support of the measure. The Consumer Lawyers of Hawaii commented on the bill.

Your Committee finds that a similar law was passed in 1997 that granted immunity to operators of businesses providing recreational activities with high degree of risks. This measure is intended to provide hotelkeepers with the same immunity.

Your Committee has amended this bill by clarifying that the bill does not bar liability of a hotelkeeper when a loss or injury is:

- (1) Suffered by a hotel guest; and
- (2) Is caused by the hotelkeeper's failure to warn against a hazardous condition on a beach or in the ocean that is known or should have been known to a reasonably prudent hotelkeeper.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3289, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3289, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 669-98      Judiciary on H.B. No. 2478**

The purpose of this bill is to exempt reserve police officers from civil service and compensation laws.

The Department of Personnel for the City and County of Honolulu and the Police Department of the City and County of Honolulu testified in support of the bill.

Your Committee finds that reserve police officers who perform services voluntarily and without compensation are essential links between the regular police and the community.

However, your Committee finds that as a result of the recent Hawaii Supreme Court case of Konno v. County of Hawaii, the ability of a government agency to utilize the services of these types of volunteers has come into question. Under the Konno decision, the Supreme Court adopted the "nature of services" test, holding that any services that have been customarily and historically provided by civil servants must be protected under Hawaii's civil service laws. The duties of police officers would most certainly be considered customarily and historically that of civil servants.

Your Committee earnestly believes that the State needs greater flexibility to conduct its operations more efficiently and effectively. The judicial interpretation of civil service laws under cases like Konno restrict the implementation of broader State goals with respect to the current budget crisis and the institution of sound State management and fiscal policies.

Your Committee has amended this bill to clearly indicate that reserve officers shall be exempt not only from section 46-33 and chapters 76 and 77, Hawaii Revised Statutes, but shall be exempt from all other applicable civil service laws.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2478, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2478, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 670-98      Judiciary on H.B. No. 3082**

The purpose of this bill is to prevent offenders who habitually drive under the influence of intoxicating liquor or drugs (DUI) law from driving while awaiting prosecution.

The Governor's Highway Safety Council, the Department of Transportation, Mothers Against Drunk Driving, and a member of the public testified in support of the bill.

Your Committee finds that this measure is necessary to correct an oversight in the current law which allows habitual DUI offenders to drive while awaiting prosecution.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3082, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3082, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 671-98      Judiciary on H.B. No. 2883**

The purpose of this bill is to amend the boundaries of Kawainui Marsh for the fee simple transfer of the marsh from the City and County of Honolulu to the State.

The Board of Land and Natural Resources testified in support of the bill.

Your Committee finds that this measure reflects a verbal agreement between the Department of Land and Natural Resources and the City and County of Honolulu to further define the boundaries for the purpose of the fee simple transfer.

Your Committee has amended this bill to make it effective upon approval.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2883, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2883, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 672-98      Judiciary on H.B. No. 3403**

The purpose of this measure is to address the problems of theft and trespass on agricultural lands by:

- (1) Making it a criminal trespass in the first degree to enter or remain unlawfully in or upon cultivated agricultural land that is fenced, enclosed, or secured in a manner to exclude intruders or on which is displayed the signage, "Private Property";
- (2) Forfeiting to the State, any vehicle found in the possession of a person convicted of criminal trespass in the first degree on agricultural land;
- (3) Making the offense of theft in the second degree of an aquaculture product or of agricultural equipment, supplies, or products subject to the requirement that the theft occur on:
  - (a) Premises that are fenced, enclosed, or secured in a manner designed to exclude intruders; or
  - (b) Premises on which is displayed a sign or signs sufficient to give notice; and
- (4) Changing the wording and spacing specifications of the signage for private property.

Your Committee received testimony in support of this measure from representatives of the Department of Agriculture, Hawaii Cattlemen's Council, Big Island Farm Bureau, Hawaii Aquaculture Association, Del Monte, Waimanalo Agriculture Association, South Oahu Farm Bureau, Kona County Farm Bureau, Hawaii Macadamia Nut Association, Pioneer Hi-Bred International, Inc., and Mangrove Tropicals. The Office of the Public Defender also submitted comments on this measure.

Your Committee finds that significant losses to farmers and ranchers occurs as a result of trespass and the subsequent theft of crops, livestock, and equipment. Your Committee believes that this measure will provide a significant deterrent to the theft of agricultural products and property. Your Committee is concerned, however, that the forfeiture of vehicles may result in inequities.

Accordingly, your Committee has amended this measure by:

- (1) Deleting the provision requiring the forfeiture of any vehicle found in the possession of a person convicted of criminal trespass in the first degree; and
- (2) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3403, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3403, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Yoshinaga.

**SCRep. 673-98      Judiciary on H.B. No. 3528**

The purpose of this bill is to repeal the prohibition against employment discrimination based upon arrest and court record.

Your Committee received testimony in support of this measure from representatives of the Department of Human Resources Development, the Department of Education, the Department of Civil Service, County of Hawaii, Chamber of Commerce of Hawaii, Goodwill Industries of Hawaii, Retail Merchants of Hawaii, the Wahiawa Community and Business Association, the National Federation of Independent Business, Nursefinders, the Hawaii Hotel Association, Hilton Resorts Hawaii, Liberty House, and Grove Farm Company, Inc. Representatives of the Hawaii Civil Rights Commission, Hawaii State AFL-CIO, Hawaii Paroling Authority, and the Hawaii Nurses' Association testified in opposition to this measure.

Your Committee finds that under current law, it is an unlawful discriminatory practice in connection with employment to discriminate on the basis of an individual's arrest and court record. Your Committee believes that the rehabilitation of individuals who may have run afoul of the law is essential to society and that gainful employment is necessary to the rehabilitative process. Your Committee is concerned, however, that broad prohibitions restricting an employer's right to question a person regarding criminal convictions may compromise the safety of customers and employees.

Upon careful consideration, your Committee has amended this measure by:

- (1) Adding a purpose section;
- (2) Deleting the provisions qualifying the exceptions to the prohibition against unlawful discriminatory practices in employment provided in Section 378-3(1), Hawaii Revised Statutes (HRS);
- (3) Limiting the prohibition against unlawful discriminatory practices in employment because of "arrest and court record" under Section 378-2(1), HRS, to "arrest records";
- (4) Adding a new definition of "arrest record" to Section 378-1, HRS, which definition excludes records of criminal conviction, thereby effectively providing an exception to the prohibition against unlawful discriminatory practices in employment on the basis of an applicant's or current employee's record of criminal conviction; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3528, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3528, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Whalen.

**SCRep. 674-98 Finance on H.B. No. 2786**

The purpose of this bill is to strengthen enforcement tools for murder and sexual offenses by:

- (1) Requiring defendants convicted of murder or a sexual offense to submit blood samples for DNA analysis;
- (2) Establishing a DNA Registry Special Fund (Fund); and
- (3) Specifying that the penalty for knowingly failing to provide blood samples is a misdemeanor.

The State Attorney General and the Honolulu Police Department testified in support of the measure.

Your Committee has amended this bill by:

- (1) Clarifying that the amount of money assessed a defendant to pay for the cost of the DNA analysis shall be paid into the Fund;
- (2) Providing that Fund consists of all assessments, other moneys received by the Fund, and the interest on moneys in the Fund; and
- (3) Making technical, nonsubstantive revisions for clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2786, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2786, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.

**SCRep. 675-98 Consumer Protection and Commerce on H.B. No. 2855**

The purpose of this bill is to streamline the regulation of nurse midwives by:

- (1) Repealing the provisions of part XXXI of chapter 321, Hawaii Revised Statutes (HRS), that require nurse midwives to be licensed by the Department of Health; and
- (2) Mandating that nurse midwives be recognized as advanced practice registered nurses (APRN) under chapter 457, Hawaii Revised Statutes.

Supportive testimony was received by the Department of Health. The Board of Nursing (Board) testified in support of the intent of the bill.

It is your Committee's understanding that nurse midwives are advanced practice registered nurses and subject to regulation by the Board. Therefore, your Committee finds that the licensing of nurse midwives by the Department of Health is redundant and unnecessary. This measure will eliminate regulatory duplication and streamline department responsibilities without sacrificing the protection of the public.

In order to clarify the intent of this measure, your Committee has amended this bill by:

- (1) Amending section 457-8.5, HRS, to require that the Board recognize a certified nurse midwife as an APRN; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2855, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2855, H.D. 1.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 676-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2345**

The purpose of this measure is to make technical changes to the motor carrier law relating to unlawful operation.

Specifically, the measure amends Chapter 271, subsections 271-27 (a), (h), and (j), Hawaii Revised Statutes, by removing the word "in" from the phrase "engages in" in each of the three subsections.

Supportive testimony was submitted by the Department of Transportation, Public Utilities Commission, Hawaii Transportation Association, and Hawaii Operating Engineers Industry Stabilization Fund.

Testimony indicated that this amendment will extend the civil and criminal penalty provisions of the State motor carrier law to shippers and consignees in the State who contract and utilize the services of illegal motor carriers. Thus, this measure proposes to provide consistent penalties for carriers, shippers, and consignees who violate the laws of the State.

Your Committees have amended this measure by making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2345, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2345, H.D. 2.

Signed by all members of the Committees except Representatives Jones and Thielen.  
(Representative Whalen voted no.)

**SCRep. 677-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2346**

The purpose of this bill is to align the licensing period and license renewal test requirements of commercial driver's licenses with the licensing period and license renewal test requirements of noncommercial driver's licenses.

Act 330, Session Laws of Hawaii 1997, eliminated the required knowledge and road tests for driver's license renewals, and extended the existing four-year licensing period to six years for licensees 18 to 72 years of age. Your Committees find that the elimination of any renewal tests as well as the extended six-year licensing period should also apply to renewals of commercial driver's licenses.

Testimony in support of this bill was submitted by the Hawaii Transportation Association and the Department of Finance of the City and County of Honolulu. The Department of Transportation testified in support of the intent of the bill, and requested that section 286-107.5, Hawaii Revised Statutes (HRS), regarding reactivation of expired licenses, fees, and waiver of road testing, also be amended consistent with the provisions of this bill.

Accordingly, your Committees have amended this bill by:

- (1) Providing that those seeking to reactivate expired commercial driver's licenses are exempt from the test requirements of section 286-236, HRS; and
- (2) Making technical, nonsubstantive amendments to correct drafting errors and for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2346, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2346, H.D. 2.

Signed by all members of the Committees except Representatives Jones and Thielen.

**SCRep. 678-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2498**

The purpose of this bill is to safeguard the interests of the community by requiring the State Health Planning and Development Agency (SHPDA) and the Attorney General to review and approve any sale or acquisition of a nonprofit hospital.

Supportive testimony was received by the Healthcare Association of Hawaii, the Hawaii Nurses' Association, the Hawaii Coalition for Health, and the Hawaii Government Employees Association. SHPDA testified in support of the intent of this bill.

Your Committees find that nonprofit hospitals are a valuable community asset that could be threatened by the purchase or acquisition by a for-profit corporation. By requiring SHPDA and the Attorney General to review the intended acquisition or sale of any nonprofit hospital by a for-profit entity, this measure will protect the public from any unfavorable acquisitions.

SHPDA testified that requiring legislative oversight could delay the time period required for business decisions and could hinder opportunities which could strengthen the nonprofit hospitals both clinically and financially. Accordingly, your Committees have amended this bill by:

- (1) Deleting the section regarding legislative oversight;
- (2) Clarifying that acquisitions by nonprofit corporations or government entities would not be subject to approval of the Attorney General; and
- (3) Making technical, nonsubstantive amendments for purposes of consistency, clarity, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2498, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2498, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Case, Hiraki, Saiki, Tom, Pendleton and Thielen.

**SCRep. 679-98      Judiciary on H.B. No. 2785**

The purpose of this bill is to amend the first degree robbery statute to include situations where a person knowingly inflicts or attempts to inflict serious bodily injury on another in the course of committing a theft.

The Attorney General, the Prosecuting Attorney for the City and County of Honolulu, and the City and County of Honolulu and Kauai County Police Departments testified in support of the measure.

Your Committee finds that adding the mental state of "knowingly" to the state of mind required for the commission of robbery in the first degree makes the mens rea requirement of this offense more consistent with the mens rea requirement of other offenses under the Penal Code.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2785 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Herkes, Hiraki and Menor.

**SCRep. 680-98      Judiciary on H.B. No. 3192**

The purpose of this bill is to remove the word "child" from the phrase "child support" in the law permitting retention of state income tax returns for certain persons who owe support or other obligations.

Your Committee received testimony in support of this bill from the Department of the Attorney General, the Office of the Corporation Counsel of the County of Hawaii, and the Office of the County Attorney of the County of Kauai. The Department of Taxation testified in opposition to the bill.

Currently, section 231-51, Hawaii Revised Statutes (HRS), allows for the retention of state income tax refunds of those persons who are delinquent in the payment of child support. This bill, as received by your Committee, deletes the word "child" from the phrase "child support" in sections 231-51, 231-52, and 576D-6, HRS, to allow for retention of refunds for those delinquent in other obligations, such as spousal and medical support.

Your Committee agrees with the Department of Taxation's testimony, however, that such a change would add vagueness to the law and may prove difficult to administer. Accordingly, your Committee recommends adding the words "spousal, or medical" after "child" to clarify that child, spousal, or medical support is covered by this law.

The purpose of this bill, as amended, is to conform state statutes with the federal Personal Responsibility and Work Opportunity Act of 1996 and the Welfare Reform Technical Corrections Act of 1997.

Specifically, Hawaii law currently requires the Child Support Enforcement Agency to report to any consumer reporting agency the amount of past due child support owed by a debtor parent. In order to comply with sections 366 and 367 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, your Committee proposes amending section 576D-6(a)(6), HRS, to:

- (1) Include the name of the debtor parent in the reporting requirement;
- (2) Cover delinquent support payments as well as child support; and

- (3) Clarify that section 603(f) of the Fair Credit Reporting Act defines "consumer reporting agency."

Likewise, your Committee recommends amending section 576D-12(c), HRS, to require that the Child Support Enforcement Agency not disclose information relating to the location of the child to another person if the agency knows a protective order has been entered with respect to the other person or if the agency has reason to believe that disclosure of the information may result in physical or emotional harm to the child.

Furthermore, your Committee suggests creating a new subsection 576D-12(d), HRS, which prevents disclosure by a family court or hearings officer of information about a parent or child received from the Secretary of Health and Human Services if disclosure could harm the parent or child. This language mirrors the federal requirement.

Section 315 of the Personal Responsibility and Work Opportunity Reconciliation Act requires that all agencies assisting in Title IV-D collection have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement. Your Committee proposes an amendment to section 576D-18(d), HRS, to reflect this federal requirement.

Finally, your Committee proposes two changes to section 584-12, HRS. First, in subsection (5), the phrase "that shall create a rebuttable presumption of paternity" should be deleted as redundant; this provision already appears in section 584-4(a)(6), HRS.

Second, as required by federal law, bills for pregnancy and childbirth, including medical insurance premiums covering this period and genetic testing, are admissible as evidence relating to paternity without the need for foundation testimony or other proof of authentication. Your Committee suggests adding this language to section 584-12, HRS.

Therefore, your Committee has amended H.B. No. 3192 by:

- (1) Clarifying that the State may retain the State income tax refunds of those persons who are delinquent in the payment of child, spousal, or medical support;
- (2) Providing for the reporting to the consumer reporting agency, as defined in section 603(f) of the Fair Credit Reporting Act, the name of the debtor parent and the amount of other delinquent support payments;
- (3) Requiring that the agency not disclose information relating to the location of the child if the agency knows a protective order has been entered with respect to the other party or if the agency has reason to believe that disclosure of the information may result in physical or emotional harm to the child;
- (4) Providing that a family court or hearings officer not disclose information about a parent or child received from the Secretary of Health and Human Services if disclosure of the information could be harmful to the parent or child;
- (5) Requiring that all agencies assisting in Title IV-D collection have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement;
- (6) Deleting in section 584-12(5), HRS, the reference to a rebuttable presumption of paternity;
- (7) Allowing for the admissibility of bills for pregnancy, childbirth, and genetic testing as evidence relating to paternity without the need for foundation testimony or other proof of authentication; and
- (8) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3192, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Herkes, Hiraki, Menor and Yoshinaga.

**SCRep. 681-98      Judiciary on H.B. No. 2921**

This measure amends section 709-904.5, Hawaii Revised Statutes (HRS), in order to expand the section's scope. The section makes it a crime for any person other than a juvenile to compensate a juvenile for the commission of any criminal offense. As amended by this bill, section 709-904.5, HRS, would make it a crime for any person other than a juvenile to intentionally or knowingly solicit or utilize a juvenile to commit a crime.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu. The Office of the Public Defender commented on this measure.

Your Committee finds that adults may be motivated to induce minors to commit a crime because, in so doing, they evade penal responsibility for the crime while reaping its benefits. The penalties under section 709-904.5, HRS, are structured to discourage adults from utilizing juveniles in this manner. Under this section, if an adult compensates or offers to compensate a juvenile to commit a crime, the grade of the criminal offense with which the adult may be charged is one level higher than the crime that the adult induced the juvenile to commit. For example, if the crime committed was a petty misdemeanor, the adult could be charged with a misdemeanor.

Your Committee supports the policy that section 709-904.5, HRS, implements, but believes that the law, as written, does not fully accomplish its goal and should not be limited only to those situations in which an adult compensates or

offers to compensate a minor. Your Committee believes that adults should be subject to an enhanced penalty not only when they compensate juveniles, but also when they command, encourage, or request a minor to commit a crime.

After careful consideration, your Committee has determined that the crime of compensating or offering to compensate a minor for a crime should be left intact, to stand as a separate offense, and that the new offense of engaging a minor to commit a crime for an adult should be established. In addition, your Committee believes that this new offense should be limited to situations in which the adult knows the child is a minor, and utilizes the minor in order to limit their own penal responsibility. Therefore, your Committee has amended this measure by deleting its contents and:

- (1) Adding a new section providing that any person who intentionally or knowingly engages a minor to commit a crime in order to limit their own penal responsibility, knowing that the minor is under eighteen years of age, commits the offense of engaging a minor to commit a crime for an adult; and
- (2) Providing that persons committing the offense of engaging a minor to commit a crime for an adult, are subject to an enhanced penalty one grade higher than the offense committed by the minor.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2921, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2921, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 682-98      Judiciary on H.B. No. 2935**

The purpose of this bill is to reduce the penalties for various misdemeanors so as to eliminate the need for jury trials for these offenses.

The Prosecuting Attorney for the City and County of Honolulu and the Office of the Public Defender testified in support of the bill.

Your Committee finds that the sentences for violations of the offenses detailed in this measure rarely exceed thirty days. Your Committee believes that by reducing these penalties to petty misdemeanors, this bill will assist in reducing court congestion while having a minimal effect on criminal prosecutions and lengths of jail time.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2935 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.

**SCRep. 683-98      Judiciary on H.B. No. 2776**

The purpose of this bill is to permit an order for restitution in a criminal case to be enforceable as a civil judgment.

Your Committee received testimony in support of this bill from the Department of the Attorney General, the Criminal Injuries Compensation Commission, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Honolulu Police Department. The Office of the Public Defender commented on this bill.

This bill allows victims of crime to enforce a criminal restitution order in the same manner as a civil judgment. Under current law, the court may require a defendant to pay restitution for the losses caused to the victim. Collection of this restitution is left to governmental entities like the Judiciary, Public Safety, and Paroling Authority, which often are able to collect only a small fraction of the amount.

There are few other options. Although the Criminal Injuries Compensation Commission helps victims by providing some compensation, victims of property crimes and some violent crimes are not eligible for any compensation from the Commission. And although a victim may bring a civil action against the defendant, this process is costly and time consuming.

Therefore, your Committee believes that victims should have a "fast track" ability to be compensated for their losses by allowing them to enforce the criminal restitution order as a civil judgment, using all of the civil collection remedies.

However, your Committee objects to several provisions of the bill. First, requiring the court to order restitution in every case may be inappropriate in those cases where the defendant is unable to afford restitution. Your Committee believes that the court should have the discretion to impose restitution where appropriate.

Second, allowing restitution for therapy and wage loss presents difficulty because these costs are often immeasurable. While the value of stolen or damaged property, medical expenses, and funeral and burial expenses can be determined with specificity, costs of therapy, which can last for months or years after the defendant is sentenced, are not. Also, wage loss may be measurable if the victim has an occupation at the time of the offense, but it becomes difficult to determine if the victim is unemployed at the time. Your Committee finds that this remedy is more appropriate for the civil arena.

Third, your Committee notes there already exists a provision in the Hawaii Revised Statutes for a stay of proceedings pending appeal. Therefore, there is no need to add that provision in this bill.

Accordingly, your Committee has amended this bill by:

- (1) Making the ordering of restitution in a criminal case discretionary rather than mandatory;
- (2) Not allowing for reimbursement of wage loss incurred by the victim and cost of therapeutic treatment required by the victim to recover from the psychological and emotional effects of the offense in the restitution order;
- (3) Removing section three of the bill regarding stay of the proceedings pending appeal from the order to pay a fine or restitution;
- (4) Allowing for the court to consider the defendant's ability to pay restitution; and
- (5) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2776, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2776, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Whalen.

**SCRep. 684-98      Judiciary on H.B. No. 3553**

The purpose of this bill is to authorize forfeiture of a person's property if the person is caught breaking into a motor vehicle.

The Honolulu Police Department testified in support of this bill.

Your Committee finds that forfeiture of property has proven to be a successful deterrent to criminal activity. Including unauthorized entry into a motor vehicle (UEMV) as one of the offenses under the forfeiture law will provide an effective deterrent to this Class C felony. Additionally, your Committee finds that UEMV should be included as an offense subject to forfeiture laws as this offense includes elements of theft, criminal property damage, and burglary which are already covered by the forfeiture law.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3553 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.

**SCRep. 685-98      Judiciary and Public Safety and Military Affairs on H.B. No. 2354**

The purpose of this bill is to establish a civil commitment procedure for the long-term care and treatment of sexually violent predators.

Your Committees received testimony in support of this bill from the Hawaii Paroling Authority, Department of Public Safety, Hawaii State Commission on the Status of Women, Department of the Prosecuting Attorney of the City and County of Honolulu, and Honolulu Police Department. The Department of Health, Office of Youth Services, Office of the Public Defender, and American Civil Liberties Union opposed this bill. The Judiciary commented on this bill.

The Hawaii Paroling Authority estimates that there are about forty prisoners presently incarcerated who are sexually violent predators. Although the prison system provides sex offender treatment for those convicted of sex crimes, these predators either are not responding to sex offender treatment or have deliberately chosen to forego such treatment. They have decided to serve their full sentences despite the possibility of parole for receiving sex offender treatment. As a result, these predators will be released from prison without rehabilitation and are likely to engage in repeat acts of predatory sexual violence.

This bill would establish a civil commitment procedure for the long-term care and treatment of sexually violent predators. If a person convicted of a sexually violent offense has served the full term of the sentence and is about to be released from a correctional facility, the court may hold a hearing to determine if that person is a sexually violent predator. If that person is found beyond a reasonable doubt to be a sexually violent predator, the court may subject the predator to an additional period of civil confinement. The predator would not be released until that person is found not to be a threat to the general public.

Your Committees have changed this bill from its original form because the testimony made it clear that implementing the bill as drafted would have been extremely difficult.

For example, the Department of Health lacks the resources, facilities, and experience to handle sexually violent predators. Confinement and treatment of dangerous sex offenders who do not have a diagnosable mental illness are beyond the scope of the treatment programs provided by the Department of Health. Furthermore, these sex offenders may not respond to existing treatment modalities and probably will require enormous resources.

Therefore, your Committees have amended this bill by allowing the court the discretion to sentence a defendant who falls under the definition of "sexually violent predator" to a term of life in prison with the possibility of parole, if the court finds it is necessary for the protection of the public.

The court will not make this finding unless the defendant has been subjected to a psychiatric or psychological evaluation that documents a significant history of committing sexually violent offenses for the purposes of the defendant's sexual



gratification, and this history makes the defendant likely to engage in predatory acts of sexual violence if not confined in a secure facility.

Your Committees believe that the court should find a significant history of committing sexually violent offenses for the purposes of sexual gratification before imposing the enhanced sentence. Your Committees believe a provision like this is broad enough to include sexually violent offenders who are pedophiles or who exhibit other sexually deviant proclivities.

Several members of your Committees also raised concern that the requirement of documentation of a "significant" history of committing these offenses watered down the intent of this law by potentially excluding those offenders who do not have a long history of sexually violent offenses.

Nevertheless, your Committees have concluded that a finding of a "significant" history of sexually violent offenses would not be difficult to demonstrate given the fact that most sexually violent predators have a long history of sex-related offenses. Your Committees further note that a history of committing offenses does not necessarily mean a history of arrests or convictions.

In summary, your Committees have amended this bill by:

- (1) Removing the provisions relating to the civil commitment of sexually violent predators;
- (2) Adding a new provision allowing the court to sentence a sexually violent predator to a term of life in prison with the eligibility of parole if the court finds the sentence is necessary for the public's protection;
- (3) Requiring the court to subject the defendant to a psychiatric or psychological evaluation that documents a significant history of committing sexually violent offenses;
- (4) Mandating the Department of Public Safety or Hawaii Paroling Authority not furlough a sexually violent predator; and
- (5) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Judiciary and Public Safety and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2354, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2354, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Menor and Yoshinaga.

**SCRep. 686-98 Finance on H.B. No. 2749**

The purpose of this bill is to stimulate Hawaii's economy by reducing the four percent general excise tax (GET) rate on airline ticket commissions to one-half percent.

The American Society of Travel Agents, the Hawaii Business League, HNL Travel Associates, and Travel Ways testified in support of this bill. The Department of Taxation testified in opposition to this measure, and the Tax Foundation of Hawaii commented on this measure.

Your Committee has amended this bill by:

- (1) Exempting taxicab services and real estate agents from the four percent GET rate but leaving the exact percentages unspecified to encourage continued discussion on this matter; and
- (2) Making technical, nonsubstantive revisions to conform to correct drafting style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2749, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2749, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 687-98 Consumer Protection and Commerce on H.B. No. 2828**

The purpose of this measure is to amend the provisions governing examination expenses, risk-based capital reports, and public hearings on workers' compensation rate filings by:

- (1) Reinstating the language that was inadvertently repealed on June 30, 1997, from section 431:2-306, Hawaii Revised Statutes (HRS), that permits the Insurance Commissioner to assess examination costs on an agent or agency when there is a premium trust fund shortage, thereby allowing the Insurance Division to recoup the cost of an examination conducted by contract examiners;
- (2) Changing in section 432:3-402, HRS, the date insurers must file their risk-based capital report from March 15 to March 1, making the filing date consistent with filing dates for financial statements currently mandated by the Insurance Code; and
- (3) Clarifying in section 431:14-120, HRS, that a public hearing will be scheduled on a workers' compensation rate filing only after the filing is complete.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2828 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 688-98 Consumer Protection and Commerce on H.B. No. 2810**

The purpose of this bill is to:

- (1) Establish and provide the statutory basis and legal mechanisms to enable the Department of Commerce and Consumer Affairs to oversee two types of business transactions affecting state-chartered or licensed financial institutions:
  - (A) The merger or consolidation of a nondepository financial services loan company by an out-of-state company; and
  - (B) The acquisition of a state-chartered financial institution of the assets or liabilities, including the deposits, of a non-state-chartered financial institution;

and
- (2) Correct an erroneous reference in section 412:12-102, Hawaii Revised Statutes.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

This housekeeping measure is necessary because the Code presently does not contain provisions establishing State oversight of the type of business transactions described above.

Your Committee has made technical, nonsubstantive revisions for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2810, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2810, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Saiki, Tom, Yoshinaga and Pendleton.

**SCRep. 689-98 Consumer Protection and Commerce on H.B. No. 2811**

The purpose of this bill is to amend the State's Lemon Law by:

- (1) Defining the term "settlement" as used within Chapter 481I, Hawaii Revised Statutes;
- (2) Requiring that a manufacturer who supplies a consumer with a replacement motor vehicle is responsible for the vehicle's sales tax, license, and registration fees;
- (3) Providing that the failure of an arbitrator to render a decision within 45 days because of unforeseen circumstances does not render a subsequent decision void; and
- (4) Providing that a motor vehicle returned to a manufacturer or dealership as a result of a judgment, arbitration, or settlement, may not be resold until it is repaired, and requiring that the resale is subject to Lemon Law disclosure requirements.

The Department of Commerce and Consumer Affairs and the Hawaii Automobile Dealers Association testified in favor of the bill.

Your Committee finds that this bill will provide the consumer with greater protection and fairer procedures.

Your Committee has amended this bill to clarify that a manufacturer who provides a consumer with a replacement motor vehicle under the Lemon Law, is responsible for payment of the vehicle's:

- (1) General excise tax, as opposed to "sales tax," because there is no sales tax in the State; and
- (2) License and registration fees, as opposed to "license, and registration fees."

Other technical, nonsubstantive amendments have been made for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2811, as amended herein,

and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2811, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 690-98 Consumer Protection and Commerce on H.B. No. 2672**

The purpose of the bill, as received by your Committee, is to exempt association captive insurers from insurance laws.

Testimony in support of the bill was received from Marsh and McLennan, Inc., and Becher and Carlson Companies. The State Insurance Division testified in opposition to the provisions in the bill that effectively exempt association and risk retention insurance companies from the limitation of risk provision set forth in section 431:3-306, Hawaii Revised Statutes (HRS).

In its testimony, the Hawaii Captive Insurance Council (HCIC) suggested several amendments to the bill, including deletion of the provisions that would exempt association and risk retention captive insurance companies from the limitation of risk requirement. The HCIC's proposed amendments were supported by the Insurance Division.

After careful consideration, your Committee finds that amendments to the bill are necessary to:

- (1) Clarify that the State's insurance laws are applicable to captive insurance companies;
- (2) Specifically exempt association and risk retention captive insurance companies from the requirement that limits an insurer's net risk on any one subject of insurance to ten percent of its surplus to policyholders;
- (3) Provide greater clarity and consistency within the Insurance Code; and
- (4) Enhance the State's attractiveness as a captive insurance domicile.

Accordingly, your Committee has amended the bill by:

- (1) Authorizing a captive insurance company to provide personal motor vehicle or homeowner's insurance coverage as an employee benefit;
- (2) Authorizing the Insurance Commissioner to allow captive insurance companies to engage in lines of insurance other than those specifically delineated in section 431:19-102(h), HRS;
- (3) Providing that a risk retention captive insurance company may not insure any risk other than those allowed under Chapter 431K, HRS;
- (4) Clarifying that the minimum surplus amounts required pursuant to section 431:19-105, HRS, for a pure captive insurance company may differ from the amounts required for an association or risk retention captive insurance company;
- (5) Providing that Chapter 431, Article 3, Part III, HRS, applies to association and risk retention captive insurance companies; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2672, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2672, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 691-98 Consumer Protection and Commerce on H.B. No. 2822**

The purpose of this bill is to add language to the motor vehicle lease disclosure law that was inadvertently omitted from Act 82, Session Laws of Hawaii, 1997.

Supportive testimony was submitted by the Hawaii Automobile Dealers Association and the Department of Commerce and Consumer Affairs.

This administration measure amends section 481L-2 of the motor vehicle lease disclosure law by requiring a lessor to disclose to customers that they have the right to obtain, upon request, a copy of the lessor's lease calculation worksheet, as well as a copy of any documents reviewed during the lease transaction. This requirement will enhance the ability of the consumer to meaningfully evaluate the prospective lease agreement.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2822, as amended herein,

and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2822, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 692-98 Consumer Protection and Commerce on H.B. No. 2818**

The purpose of this measure is to delete the term "registration", or any derivative thereof, throughout Chapter 437B, Hawaii Revised Statutes (HRS), and substitute the term "license", or an appropriate derivative thereof, in its place.

Supportive testimony was submitted by the Hawaii Automotive Repair and Gasoline Dealers Association and the Motor Vehicle Repair Industry Board.

Testimony indicated that the enactment of this Administration measure will place Chapter 437B, Hawaii Revised Statutes, into its proper perspective as a "licensing" law rather than merely a "registration" law, thereby allowing penalties to be imposed on those practicing without a motor vehicle repairs' license. The change in terminology will bring the language of Chapter 437B, HRS, into parity with other licensing laws administered by the Department of Commerce and Consumer Affairs.

Your Committee has made technical, nonsubstantive revisions for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2818, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Garcia, Herkes, Tom, Pendleton and Whalen.

**SCRep. 693-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3147**

The purpose of this bill is to make all Public Utility Commission (PUC) orders appealable directly to the Supreme Court by an aggrieved party in a contested case proceeding.

The Department of Commerce and Consumer Affairs, GTE Hawaiian Tel, Kauai Electric, and The Gas Company testified in support of the bill.

Your Committees find that the decision by the Hawaii Supreme Court in *Peterson v. HELCO, Inc.*, which held that only rate-related orders of the PUC were appealable directly to the Supreme Court and that other PUC orders must be appealed to the Circuit Court prior to the Supreme Court, is not aligned with the practices of the PUC and illustrates that the statutes regarding the appeals process of PUC orders require clarification. This measure provides that all final orders issued by the PUC under Chapter 269, Hawaii Revised Statutes, can be appealed by an aggrieved party in a contested case proceeding directly to the Hawaii Supreme Court. This measure will help both utility companies and consumers by expediting the appeal process of PUC decisions.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3147 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Cachola, Case, Hiraki, Saiki, Pendleton and Thielen.

**SCRep. 694-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2813**

The purpose of this measure is to create a more expedient and efficient means of disciplining a licensee for minor professional and vocational licensing law violations.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

Currently, all professional and vocational licensing law violations are handled through the Regulated Industries Complaints Office (RICO). Certain of these violations, however, do not directly correlate with consumer harm, are minor in nature, and are immediately discernible. Presently, if there are factors warranting legal action, these minor infractions are processed in a manner more appropriate for major law infractions.

Testimony indicated that this administrative measure will remove unnecessary processing of certain minor violations where appropriate, without compromising the handling of cases. This will be accomplished by authorizing the issuance of a citation to licensees in minor infraction cases and by entitling the licensee to an administrative hearing if requested in a timely manner. Furthermore, it is anticipated that enactment of this measure will enable the avoidance of needless expenditures of time and money on minor infractions, thereby resulting in the efficient and effective processing of appropriate minor infraction cases.

Your Committees have made technical nonsubstantive revisions for purposes of clarity, style, and consistency.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2813,

as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2813, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Jones, Saiki, Tom, Yoshinaga, Pendleton and Thielen.

**SCRep. 695-98 Water and Land Use on H.B. No. 3138**

The purpose of this bill is to permit counties to transfer development rights between two lots.

Your Committee received testimony in support of the measure from the Land Use Research Foundation of Hawaii, the Hawaii Cattlemen's Council, Inc., and the Nature Conservancy. Testimony opposed to the measure was received from the City and County of Honolulu Department of Land Utilization and the Sierra Club, Hawaii Chapter. Comments were received from Hawaii's Thousand Friends.

Your Committee finds that if government clearly allows and encourages the transfer of development rights, it will result in greater voluntary protection of our State's open space, pasturelands, undeveloped resource areas, and important habitat for native species.

After consideration of the testimony, your Committee has amended the measure by deleting the provisions relating to tax adjustment, development rights bank, and determination of impact on housing. These amendments allow the counties the flexibility to design their own ordinances in the most effective manner while meeting the purposes as articulated in the measure. The amendments also make it clear that this legislation does not affect the counties' authority to purchase development rights.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3138, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3138, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Goodenow and Thielen.

**SCRep. 696-98 Water and Land Use and Energy and Environmental Protection on H.B. No. 735**

The purpose of this bill is to ensure the continued viability of game mammals such as the feral pig by recognizing them for cultural, subsistence, and recreational purposes:

- (1) When consistent with other laws and rules;
- (2) Where continued existence of these mammals does not pose a threat to essential or critical habitats of threatened or endangered species; and
- (3) Where continued takings of these mammals are consistent with sound management practices.

This bill also requires the Department of Land and Natural Resources (DLNR) to adopt rules in a way that respects the cultural traditions of subsistence hunters.

The DLNR, the Wildlife Conservation Association of Hawaii, the Big Island Bird Hunters, the International Longshore and Warehouse Union, Local 142, the Conservation Council for Hawaii, and two individuals testified in support of this bill. The Environmental Center of the University of Hawaii submitted testimony in opposition to this measure. The Hawaii Hunting Association and the Pig Hunters of Hawaii offered comments and amendments to this measure.

Your Committees have amended the requirements that specify the conditions under which game mammals may be recognized by:

- (1) Specifying that the applicable laws include chapters 183 (Forest Reserves, Water Development, Zoning), 183D (Wildlife), 195 (Natural Area Reserves System), and 195D (Conservation of Aquatic Life, Wildlife, and Land Plants); and
- (2) Deleting the requirement that game mammals do not pose a threat to the habitats of threatened or endangered species.

It is not the intent of your Committees that this bill provide a legal claim for the hunting of game mammals as a native Hawaiian subsistence gathering right. Furthermore, it is not the intent of this measure to ultimately define the multiple uses of the forested areas. Rather, it is the intent of your Committees that game mammals such as the feral pig be recognized as a significant resource to be managed for, among other reasons, cultural, subsistence, and recreational purposes.

As affirmed by the records of votes of the members of your Committees on Water and Land Use and Energy and Environmental Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 735, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 735, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Garcia, Kanoho and Meyer.  
(Representative Thielen voted no.)

**SCRep. 697-98 Consumer Protection and Commerce on H.B. No. 3427**

The purpose of this measure is to allow purchasing groups to purchase insurance from an out-of-state risk retention group if done through an agent or broker acting pursuant to the surplus lines laws of the agent's or broker's state.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

Testimony indicated that language in section 431K-8, Hawaii Revised Statutes (HRS), relating to the requirement that an agent or broker purchasing insurance must act pursuant to Article 8 of Chapter 431, HRS, has created conflicts with other provisions of the Insurance Code. This measure will eliminate the conflicts and ambiguity between the language contained in Chapter 431K, HRS, and Article 8 of Chapter 431, HRS.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3427 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Saiki, Tom, Yoshinaga and Pendleton.

**SCRep. 698-98 Education on H.B. No. 3167**

The purpose of this bill is to improve information contained in the Department of Education's annual educational status report by:

- (1) Requiring the assessments of educational outcomes to be reported longitudinally by student cohort, in addition to cross-sectionally by school, when feasible and appropriate; and
- (2) Increasing information available to the public about schools by requiring the assessment information to be disseminated through mass media.

The Department of Education submitted testimony in support of the bill.

Your Committee finds that longitudinal information is necessary to effectively assess the effectiveness of particular programs or educational efforts. In addition, the general public should have more information about the quality of public education.

Technical, nonsubstantive amendments have been made to the bill.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3167, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3167, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Santiago and Takamine.

**SCRep. 699-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3548**

The purpose of this bill is to assist the police in tracking stolen property and increase the likelihood of the property being returned to its legal owner by:

- (1) Requiring that the thumbprint of persons from whom articles are received be added to the records dealers are required to keep;
- (2) Requiring that the forms used to record the articles received by the dealer be authorized and not necessarily prescribed by the Chief of Police in each County;
- (3) Requiring that the originals and not the copies of the forms used to record the articles received by the dealer be available if requested by the Chief of Police in each County;
- (4) Increasing to sixty calendar days, the time in which dealers must retain articles received or purchased, including retaining precious or semiprecious metals or gems in the form in which they were received or purchased;
- (5) Allowing the holding period for received or purchased articles to be reduced to twenty-one calendar days upon the approval of the Chief of Police in each County; and
- (6) Broadening the scope of regulation by defining "antique dealer".

The Honolulu Police Department submitted testimony in support of the bill. The Hawaii Pawnbrokers Association and several individuals commented on the bill.

Your Committees believe that the holding period for items received or purchased by dealers should be sufficient to not only enable police to locate items that may have been stolen but also to allow more time for owners to retrieve their property. However, your Committees also believe that the holding period should be reasonable to enable dealers to operate their businesses in a way that does not adversely affect their ability to conduct business in an economically sound and viable manner. It is your Committees' understanding that last year, a consensus was reached between the police departments and the pawnbrokers establishing thirty calendar days as a reasonable holding period. Your Committees have taken this into consideration in amending this bill.

Also, your Committees find that using forms that are prescribed by rather than merely authorized by the Chief of Police in each county will allow the police departments more regulatory control over items received.

Upon careful consideration, your Committees have amended this bill by:

- (1) Changing from sixty to thirty calendar days, the time in which dealers must retain articles received or purchased, including retaining precious or semiprecious metals or gems in the form in which they were received or purchased;
- (2) Deleting the provision allowing the Chief of Police in each County to reduce the holding period to twenty-one days for articles received or purchased by dealers;
- (3) Maintaining that the forms used to record articles received by the dealers be prescribed and not merely authorized by the Chief of Police in each County; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3548, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3548, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Hiraki, Yoshinaga and Thielen.

**SCRep. 700-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2369**

The purpose of this measure, as received by your Committees, is to amend section 514A-90, subsections (a) and (b), Hawaii Revised Statutes (HRS) by:

- (1) Granting limited priority to condominium association liens for unpaid common expenses for the six months immediately preceding a foreclosure;
- (2) Allowing an association to assess up to six months unpaid common expenses against purchasers of foreclosed apartments, other than mortgagees; and
- (3) Creating an additional lien for costs and expenses incurred in the collection of unpaid expenses.

Supportive testimony was submitted by the Real Estate Commission, the Hawaii Council of Associations of Apartment Owners (HCAAO), the Community Associations Institute-Hawaii Chapter, the Makakilo Hale I Condominium Association, the Hawaii Association of Realtors (HAR)-Condominium Subcommittee, Cathedral Point Condominium AOA Inc., and a concerned individual.

Testimony in opposition to the bill was submitted by the Hawaii League of Savings Institutions, the Hawaii Bankers Association, and the Mortgage Bankers Association.

Testimony indicated that this measure will allow condominium associations to obtain limited priority liens for unpaid common expenses for six months prior to a foreclosure, and obtain an additional lien for costs and expenses incurred in the collection of unpaid expenses, thereby helping to reduce the losses condominium associations currently face under foreclosure law.

However, testimony also raised concerns about the justification for a provision allowing condominium associations to assess unpaid common expenses against purchasers of foreclosed apartments, other than mortgagees.

Therefore, after careful consideration of the testimony, your Committees have amended the bill by deleting language holding a purchaser of an apartment, other than a mortgagee, jointly and severally liable with the apartment's former owner, for up to six months of common expenses.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2369, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2369, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Hiraki, Tom, Yoshinaga and Whalen.

**SCRep. 701-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3568**

The purpose of the bill is to:

- (1) Establish that unlawful possession of a credit card by a person with prior conduct involving theft, forgery, and fraudulent use of a credit card, is prima facie evidence that the person knew that the credit card had been taken or obtained without the cardholder's consent; and
- (2) Include data stored in computers or on magnetic media within the prohibition on the unlawful sale of credit card data.

The Honolulu Police Department (HPD) testified in support of the bill and suggested amendments.

Your Committees find that the provisions of this bill will enhance the ability of law enforcement to successfully investigate and prosecute individuals who commit credit card fraud.

Your Committees, based on the recommendation of HPD, have amended the bill by:

- (1) Deleting the provision relating to "prior conduct" as an element of prima facie evidence of knowledge that a credit card has been unlawfully taken, and inserting a provision establishing that unlawful possession of a credit card is prima facie evidence of an intent to use, sell, or transfer the card; and
- (1) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3568, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3568, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Cachola, Garcia, Hiraki, Yoshinaga and Whalen.

**SCRep. 702-98      Judiciary on H.B. No. 2942**

The purpose of this bill is to amend section 708-801, Hawaii Revised Statutes, to clarify that the valuation of amounts involved in thefts is determined by the property taken rather than the property damaged.

The Prosecuting Attorney for the City and County of Honolulu testified in support of the bill.

Your Committee finds that this bill is a housekeeping measure to correct an error relating to the valuation of property involved in thefts. The current law speaks of property "damaged" where it should logically refer to property "taken".

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2942 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Herkes, Hiraki and Menor.

**SCRep. 703-98      Judiciary on H.B. No. 1595**

The purpose of this bill is to permit the victim of a sexual assault to require that the person charged with the assault be tested for the human immunodeficiency virus (HIV).

Your Committee received testimony in support of this bill from the Department of the Attorney General, the Hawaii State Commission on the Status of Women, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Honolulu Police Department, the Hawaii Women's Political Caucus, the Sex Abuse Treatment Center, the Domestic Violence Clearinghouse and Legal Hotline, and several concerned individuals.

The Department of Health supported the intent of this bill, but recommended that the bill be amended to require testing only after conviction. The Office of the Public Defender and the Hawaii Nurses' Association commented on this bill. The Governor's Committee on HIV/AIDS, the American Civil Liberties Union, and the AIDS Community Care Team opposed this bill.

Sexual assault is a traumatic experience for victims. Your Committee finds that fear of contracting HIV from the offender leads to anxiety, pain, self-doubt, and humiliation and further compounds the trauma. Your Committee believes that, to reduce this trauma, victims of these crimes should have the right to request that the the offender be tested for HIV.

In addition to the comfort HIV testing may provide to the victim, your Committee notes that Hawaii is losing federal funding as a penalty for not requiring this testing. In 1997, Hawaii lost over \$314,000 in federal funds. Given the economic constraints of our State, your Committee believes that passing this legislation would help to improve our State's financial situation.

Forty-eight other states have laws allowing for the HIV testing of a defendant in a sexual assault case. Twenty-seven of these states allow for HIV testing before conviction. Your Committee recommends that Hawaii should catch up with the rest of the nation by passing this legislation.

Your Committee further finds that early detection and treatment significantly benefits those infected with HIV. For this reason, this bill requires HIV testing when the defendant is charged with the offense, rather than upon conviction.

Therefore, your Committee has amended this bill by:

- (1) Conforming this bill with federal law by allowing for the testing of an accused person upon a charge rather than an indictment;
- (2) Changing the effective date to "upon approval;" and



- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1595, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1595, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Whalen.

**SCRep. 704-98 Education on H.B. No. 2693**

The purpose of this bill is to empower the State Student Council (Council) by authorizing the Council, rather than the student conference committee, to determine the format of the Annual Conference of Secondary School Students (Conference).

The Department of Education (DOE) testified in appreciation of the support the Legislature has provided in advancing student government issues. However, DOE opposed the bill because the Council is in an expansion phase, and it may not be able to undertake the planning of the Conference at this time.

Your Committee has amended the bill by:

- (1) Changing its effective date from "upon its approval" to July 1, 1999; and
- (2) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2693, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2693, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 705-98 Education on H.B. No. 3165**

The purpose of this bill is to encourage teachers and the parents to form partnerships for the benefit of student learning by requiring them to meet at the beginning of the school year to develop agreements about their respective roles and expectations for the child.

The Hawaii Congress of Parents, Teachers and Students submitted testimony in support of the measure. The Department of Education submitted testimony in support of the intent of the bill. The Hawaii State Teachers Association and the teachers of Aliiolani Elementary School testified in opposition to the bill.

Your Committee finds that teachers and parents share the same hopes, desires, and dreams for children -- that they acquire the knowledge and learn the skills, attitudes, and values that will enable them to succeed in life. The process of education is not confined to school, nor should it be, for parents also play a significant role in the education of their children. Typically, however, teachers and parents have very limited interaction, if any, to develop mutual agreements to determine how each can contribute to the education of the child. Practically speaking, teachers and parents now operate in separate spheres.

This bill is intended to begin to form partnerships between teachers and parents that focus on the education of the child. In this regard, your Committee recognizes that change is expected, and that change can be a difficult prospect. However, your Committee believes that in this instance change can occur because teachers and parents both have the interest of the child at heart.

Your Committee wishes to clarify certain aspects of the bill by stating the following intentions, that:

- (1) The meetings between teachers and parents occur within the first two months of the beginning of the school year;
- (2) School personnel other than teachers, such as parent-community network coordinators and outreach counselors, assist in arranging the meetings between teachers and parents; and
- (3) At the secondary level, the mechanism of the school support group, which is an essential component of the Comprehensive Student Support System, gives teachers the opportunity to engage in developing the partnership agreements with parents.

The bill has been amended by:

- (1) Requiring the student support group at each high school, middle school, and intermediate school to develop a mechanism for teachers and parents to formulate agreements rather than requiring them to meet in groups;
- (2) Requiring parents and teachers to determine how the agreements can be monitored;
- (3) Changing the effective date from the approval date to July 1, 1999; and
- (4) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3165, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3165, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Santiago and Takamine.

**SCRep. 706-98 Education on H.B. No. 2836**

The purpose of this bill is to permit the Board of Education to determine the starting age for children entering kindergarten and first grade.

Your Committee received testimony in favor of this measure from the Board of Education, the Hawaii Congress of Parents, Teachers and Students, the Hawaii Association for the Education of Young Children, Kauai Independent Daycare Services, Inc., the Maui County Early Childhood Resource Coordinator, and a private citizen. Testimony in opposition to the measure was received from the Hawaii State Teachers Association and several private citizens. Informational testimony was received from the Superintendent of Education.

Your Committee agrees with the intent of this bill, and finds that children who start school at an earlier age than their peers may be at a significant disadvantage depending on their school entry date, and that delayed entry may be of significant benefit to late-born children throughout their educational careers.

Upon further consideration, your Committee has amended this bill by:

- (1) Adding the following language to section 302A-411(a) in section 1 of the bill: "The board may develop procedures for review and exception in the case of a child who is found to be physically, emotionally, and socially ready for kindergarten and for schools to address early entry and special school programs for kindergarten"; and
- (2) Making a technical, nonsubstantive change.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2836, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2836, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Santiago and Takamine.

**SCRep. 707-98 Consumer Protection and Commerce on H.B. No. 2507**

The purpose of this bill is to enhance investor protection and eliminate inefficiencies and duplicative regulation by conforming Hawaii's securities laws (Chapter 485, Hawaii Revised Statutes (HRS)) to the National Securities Markets Improvement Act of 1996 (NSMIA).

Among other things, this bill:

- (1) Allows the sale of a federal covered security (FCS) upon meeting prescribed filing requirements;
- (2) Prescribes conditions in which a person may transact business in Hawaii as a federal covered adviser; and
- (3) Exempts certain securities and transactions from Chapter 485, HRS.

Your Committee finds that NSMIA represents the most substantial changes to the federal securities laws since they were first enacted over fifty years ago. In particular, NSMIA amended the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940 to promote greater uniformity between state and federal law in the regulation of securities offerings, broker-dealers, investment advisers, and investment adviser representatives.

Your Committee further finds that NSMIA enhances investor protection by eliminating the inefficiencies existing in the previous duplicative system of regulation. As a result, NSMIA enables states to concentrate their efforts in those areas providing the greatest benefit to investors: investigating and bringing enforcement actions to redress fraud and deceitful practices in connection with the offer or sale of securities or the rendering of investment advice.

The Hawaii Society of the Institute of Certified Financial Planners and the Business Law Section of the Hawaii State Bar Association submitted testimony supporting this measure.

The Department of Commerce and Consumer Affairs (DCCA), the Securities Industry Association of Hawaii, and the Investment Company Institute submitted testimony in support of the intent of this measure, while recommending amendments.

Your Committee acknowledges the concerns of testifiers regarding the time period for the processing of registration applications and encourages the cooperation of DCCA to address these concerns.

Your Committee has amended this bill by:

- (1) Providing greater flexibility in the responsibilities assigned to the Commissioner of Securities (Commissioner) in regulating federal covered securities and in determining the filing requirements for registering the sale or offer of federal covered securities including:
  - (A) The documents required to be filed with the Commissioner; and

- (B) The time period allowed before registration or notice and payment of applicable fees are required to be filed with the Commissioner;
  - (C) The form used to register the sale or offer of a federal covered security; and
  - (D) The ability to waive any or all of these requirements.
- (2) Establishing an initial filing fee of \$200 and a renewal fee of \$50 per year; and
  - (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2507, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2507, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Tom and Pendleton.

**SCRep. 708-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2537**

The purpose of this bill is to preserve insurance coverage for and prevent discrimination against individuals who have been or are at risk of being abused in a domestic relationship.

Supportive testimony was received by the Hawaii State Commission on the Status of Women, the Hawaii Nurses Association, and several concerned individuals. The American Council of Life Insurance, the Domestic Violence Clearinghouse and Legal Hotline, and State Farm Insurance Companies testified in support of the bill with suggested amendments. The Department of Commerce and Consumer Affairs testified in support of the intent of the bill.

Your Committees find that the threat of lost insurance coverage may prevent victims of domestic abuse from seeking help, if, by seeking help, the insurance company may learn of their situation. This measure provides protection to victims and at-risk victims of domestic violence from increased premium rates or application denial, cancellation, or restriction.

It is your Committees' understanding that the scope of insurance coverage affected by domestic abuse cases must extend not only to health and life insurance, but also to property insurance, mutual benefit societies, fraternal benefit societies, and health maintenance organizations.

The testimony of State Farm Insurance Companies included a concern that the bill may give preferential treatment, rather than simply prohibit unfair discrimination, to victims of domestic violence and may affect the ability of insurance providers to prosecute insurance fraud cases. Accordingly, your Committees have amended this bill by:

- (1) Incorporating the new sections added specifically to Section 431, Articles 10A, 10D, and 10E, Hawaii Revised Statutes, into one new section to Section 431 Part II of Article 10, Hawaii Revised Statutes, which:
  - (A) Broadens the scope of insurers subject to this Act;
  - (B) Prohibits discrimination against victims or potential victims of domestic abuse without affecting the insurance provider's ability to prosecute fraudulent acts; and
  - (C) Preserves property loss benefits for an insured whose property loss resulted from an act of domestic abuse by another insured under the same policy;

and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2537, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2537, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Cachola, Case, Hiraki, Saiki, Pendleton and Thielen.

**SCRep. 709-98 Consumer Protection and Commerce and Judiciary and Finance on H.B. No. 2823**

The purpose of this bill is to continue reform of the motor vehicle insurance laws initiated by the passage of Act 251, Session Laws of Hawaii 1997, by:

- (1) Streamlining the motor vehicle insurance administration process;
- (2) Extending the amnesty program through December 31, 1998;
- (3) Including massage therapy by licensed massage therapists as an optional benefit for the treatment of motor vehicle injuries; and

- (4) Making housekeeping amendments to clarify laws that are unclear.

The Department of Commerce and Consumer Affairs and the Consumer Lawyers of Hawaii submitted comments on the bill. The Hawaii Insurers Council, State Farm Insurance Companies, and a concerned individual testified in support of the bill with suggested amendments.

It is your Committees' understanding that the reforms initiated by Act 251, Session Laws of Hawaii 1997, are achieving the goals anticipated by the Legislature. The Insurance Commissioner testified that although too little time has elapsed since enactment for a meaningful evaluation of the effect that Act 251 has on the motor vehicle insurance industry and the consumers, some of the goals already met include:

- (1) Successful reduction of premiums which exceeds the goals set by the Legislature of a twenty-five to thirty-five percent rate reduction;
- (2) Ensuring that the savings from these reduced rates are extended to the consumer; and
- (3) Elimination of the expensive and time consuming Peer Review Organization system.

Your Committees find that this measure will continue to improve the motor vehicle insurance laws and clarify unclear laws which may be subject to interpretation to the detriment of consumers.

Upon careful consideration your Committees have amended this bill by:

- (1) Adding the option for opposing parties to elect arbitration of claims as an alternative to costly and time-consuming lawsuits;
- (2) Adding wage loss definition for "monthly earnings" to clarify when claimants are entitled to wage loss benefits;
- (3) Clarifying that therapeutic massage by a licensed massage therapist as prescribed by a doctor, is a permitted treatment;
- (4) Correcting a typographical error in the amnesty provision which extends the amnesty period to December 31, 1998;
- (5) Adding a provision which allows the Insurance Commissioner to give special consideration to companies that complied with the amnesty provisions as enacted in 1997;
- (6) Restoring the adjudicative hearing rights and arbitration option for service providers in connection with a denial of benefits;
- (7) Deleting the provision prohibiting an insurer to alter, adjust, or offset a judgment or settlement to compensate for the maximum covered loss deductible;
- (8) Streamlining the requirements for commercial policies by exempting all commercial policies from many options required in personal policies that would duplicate benefits;
- (9) Amending death benefits to allow payment to the estate, rather than named beneficiaries, to streamline the application and processing of these benefits;
- (10) Adding optional chiropractic benefits, in addition to the required basic chiropractic benefits, for those wanting more chiropractic coverage;
- (11) Clarifying the calculation of personal injury benefits for threshold purposes; and
- (12) Eliminating the need to make unnecessary underinsured motorist claims by specifying a separate statute of limitations for those claims.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce, Judiciary, and Finance that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2823, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2823, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Ahu Isa, Garcia, Hiraki, Tom, Yoshinaga, White, Ward and Whalen.

**SCRep. 710-98 Energy and Environmental Protection and Water and Land Use on H.B. No. 3255**

The purpose of this bill is to eliminate the duplicative environmental review of the Waikiki area that occurs as a result of overlapping state and city and county regulation of the area. To achieve this purpose, this bill removes the Waikiki Special District from the list of conditions that trigger environmental assessment under Chapter 343, Hawaii Revised Statutes (HRS).

Supporting this measure were the City and County of Honolulu (C&C), Land Use Research Foundation of Hawaii, American Planning Association, Hawaii Chapter, Waikiki Neighborhood Board; Hawaii Business Roundtable, The MacNaughton Group, Hilton Hawaiian Village; Kusao & Kurahashi, Inc., and Outrigger Enterprises, Inc. The Office of Environmental Quality Control offered comments.

Opposing this measure were Common Cause Hawaii, American Lung Association of Hawaii, The League of Women Voters of Honolulu, Waikiki Area Action Association, and private citizens.

Testimony revealed that in 1974 the state legislature passed Act 246, which was codified in the HRS as chapter 343. Chapter 343 established a system of environmental review of proposed land use projects and mandates the preparation, under certain conditions, of environmental assessments and environmental impact statements as a prerequisite for obtaining land use permits for a project. Proposed use within the Waikiki area was included as one of the conditions triggering environmental impact review. The Waikiki area is the only geographic area in the state in which any proposed use will trigger application of Chapter 343. All other conditions listed in Chapter 343 do not specify a particular geographic location.

At the time that Chapter 343 was enacted, there was a need to establish additional development controls in the Waikiki area. From statehood to 1974, Waikiki saw uncontrolled growth which created serious problems that threatened to erode the quality of the Waikiki environment. The C&C had not yet adopted any special zoning regulations for Waikiki, and the EIS process was a logical way of ensuring that land use permit decisions for the area would be based on adequate disclosure of a project's potential impacts.

In subsequent years, the C&C initiated the Waikiki Special Design District (WSDD) regulations, the Oahu Development Plans, the Special Management Area permit requirements via Chapter 205A, State water and air quality permitting, flood hazard districting, and other amendments to the City's Land Use Ordinance (LUO). These regulations establish design and environmental guidelines applicable to the Waikiki area and have created a system of area-specific review criteria that is separate from, and in addition to, the State system under Chapter 343. As a result, those persons proposing uses within the Waikiki area must, in many instances, comply with duplicative regulatory requirements.

Upon further questioning, by your Committees, it was revealed that Chapter 343 provides review of the environmental impact of development projects in Waikiki that is more comprehensive than under the C&C regulations. Thus, your Committees find that it is premature to eliminate the Waikiki Special District trigger from chapter 343 because, currently, there are no assurances that coverage under the County regulatory framework would provide the Waikiki area with the level of environmental review that exists under State law. Your Committees do, however, recognize that streamlining is necessary to eliminate duplicative regulations that add to the cost of doing business in Waikiki.

Therefore, your Committees have amended this bill as follows:

- (1) Where there is duplication of environmental assessment requirements as a result of the overlap of State law and rules, and C&C ordinances and rules relating to the Waikiki Special District, the C&C ordinances and rules shall govern; and
- (2) Where the environmental assessment process is not duplicative, then the stricter State laws and rules shall govern.

Your Committees have also made technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committee on Energy and Environmental Protection and Water and Land Use that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3255, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3255, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Goodenow, Tarnas and Thielen.

**SCRep. 711-98      Judiciary on H.B. No. 2355**

The purpose of this bill is to allow police officers to issue written orders requiring persons not to return to any commercial premises or other private property for a period not exceeding one year.

The Mayor of the City and County of Honolulu, the Prosecuting Attorney for the City and County of Honolulu, and the Hawaii Visitor Industry Security Association testified in support of the bill. The Office of the Public Defender and the Legislative Information Services of Hawaii commented on the measure.

Your Committee finds that under the current law, as long as a trespasser leaves the premises immediately upon being ordered to do so, the trespasser can return that same day with no consequences. Merchants are forced to cope with chronic theft and customer harassment by trespassers who have learned that the current law is ineffective against them. This bill closes this loophole in the law.

Your Committee has amended this bill by:

- (1) Requiring that written warnings be given by the owner or lessee of the premises, or their agent, or by a police officer; and
- (2) Adding suggested language for the written warnings.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2355, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2355, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Herkes, Hiraki, Menor and Yoshinaga.

**SCRep. 712-98      Judiciary on H.B. No. 3262**

The purpose of this bill is to allow the distribution of property in kind to be made on a pro rata and non-pro rata basis.

Testimony in support of this bill was submitted by the Estate of James Campbell, Pacific Century Trust, and a member of the public.

Your Committee finds that under Hawaii's Uniform Probate Code (Code), personal representatives of probate estates have the power to make distributions of estate assets in kind on either a pro rata or non-pro rata basis at the discretion of the personal representative. This measure will allow trustees of trust estates the same powers, creating consistency within the Code.

Your Committee has amended this bill by allowing currency to be distributed on a pro rata basis.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3262, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3262, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 713-98      Judiciary on H.B. No. 1241**

The purpose of this bill is to provide that any person who intentionally or knowingly causes bodily injury or recklessly causes substantial bodily injury to a police officer is guilty of a class C felony.

The Honolulu Police Department and several members of the public testified in support of this bill. The Office of the Public Defender commented on the measure.

Your Committee finds that police officers are the first line of civil defense in our society. Police officers have an extremely difficult duty to perform. To keep the peace they must oftentimes intervene in very hostile situations placing their well being, and many times their very lives, in jeopardy.

Your Committee believes that a strong message must be made to the community that assaults against officers of the law will not be tolerated by our society.

As such, your Committee has amended this bill to establish a new section in the Penal Code to deal specifically with serious assaults against a police officer making the offense a class C felony with a minimum sixty-day sentence in cases where a person:

- (1) Intentionally, knowingly or recklessly causes substantial bodily injury to a police officer engaged in the performance of the officer's duty; or
- (2) Negligently cause, with a dangerous instrument, substantial bodily injury to a police officer engaged in the performance of the officer's duty.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1241, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 714-98      Consumer Protection and Commerce on H.B. No. 2675**

The purpose of the bill is to:

- (1) Establish that an indemnification received by a surety in exchange for a bond does not constitute a premium, and therefore, the bonding agreement does not constitute insurance as defined in section 431:1-201, Hawaii Revised Statutes (HRS); and
- (2) Provide that the use of an agreement or document that eliminates or diminishes the protection that a bond is intended to provide is an unfair deceptive trade practice under section 481A-3, HRS.

Testimony on the bill was received from the Department of Commerce and Consumer Affairs, A-1 Bonding, Inc., and several individuals.

Testimony indicated that it is common practice for building material supply houses to provide residential construction bonds to contractors who are unable to secure bonding from a commercial surety. Lenders require that the contractor be bonded as a condition of providing the consumer with construction financing. In exchange for the performance bond, under which the supply house must complete construction if the contractor fails to meet its obligation, the supply house requests indemnification from the contractor and requests that the contractor purchase its supplies from the supply house.

This bill provides that the indemnification given in exchange for the bond does not constitute a premium, and therefore, the bond agreement is not an insurance transaction that brings the supply house under the Insurance Code, Chapter 431, HRS.

Your Committee is aware, however, that supply houses may issue performance bonds that require indemnification from the homeowner in addition to the contractor. These types of transactions present the potential for significant harm to consumers/homeowners because few consumers/homeowners can afford to invoke the performance bond in the event of a contractor's failure to meet its obligations. Invoking the bond would require the homeowner, who is already in debt to the lender, to reimburse the supply house for completing construction. Those homeowners unable to incur such a financial hardship would not pursue the supply house to fulfill the construction contract and would be left with an unfinished home or renovation.

In order to discourage bond agreements that require indemnification from the homeowner, this bill provides that an instrument that eliminates or diminishes the protection the bond is intended to provide, constitutes an unfair deceptive trade practice under section 481A-3, HRS. Your Committee is concerned, however, that this proposed amendment to Chapter 481A, HRS, lacks sufficient specificity and clarity regarding the type of bonds intended to be covered by this provision. Therefore, your Committee has amended the bill to provide a reference to Chapter 444, HRS, relating to contractors, to clarify that the bonds affected by this measure are those relating to homeowners and home construction or improvement.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2675, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2675, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona and Pendleton.

**SCRep. 715-98 Consumer Protection and Commerce on H.B. No. 2869**

The purpose of this bill is to protect the public by:

- (1) Defining bungee jumping as an amusement ride;
- (2) Requiring the Department of Labor and Industrial Relations (DLIR) to regulate all commercial bungee jumping to ensure the safe installation and operation of the device; and
- (3) Prohibiting all commercial bungee jumping until DLIR develops and implements adequate administrative rules.

DLIR and E. K. Fernandez commented on this measure.

Your Committee finds that the State's role in the inspection of amusement rides should be limited to assuring that amusement rides are inspected by qualified inspectors, that rules relating to safe set-up and use are complied with, and that the promoters and equipment owners have adequate insurance coverage to motivate them to operate safely. The DLIR testified that the lack of staffing and knowledge of bungee jumping devices would make the issuance of permits difficult but acknowledges that qualified outside inspectors could be authorized to perform these inspections.

In accord with the DLIR's testimony, your Committee has amended this measure by:

- (1) Authorizing bungee jumping operators to use qualified inspectors, rather than DLIR, to inspect the device;
- (2) Deleting the requirement that DLIR conduct semi-annual inspections;
- (3) Clarifying that DLIR may investigate related accidents for the purpose of making orders and recommendations for accident prevention and compliance with Section 397-4, Hawaii Revised Statutes;
- (4) Deleting the provision that allowed DLIR to apply to the respective circuit court for an immediate granting of a temporary restraining order when there is an imminent hazard to life or safety of a person or property;
- (5) Amending the title and short title of Chapter 397, Hawaii Revised Statutes, to include amusement rides;
- (6) Clarifying the definition of "amusement ride" to refer to mechanical or electrical devices; and
- (7) Making technical, nonsubstantive revisions to correct grammatical errors and for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2869, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2869, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Case, Garcia, Tom, Yoshinaga and Pendleton.

**SCRep. 716-98 Consumer Protection and Commerce on H.B. No. 2482**

The purpose of this measure is to amend Chapter 171, Hawaii Revised Statutes (HRS), to authorize the Board of Land and Natural Resources (BLNR) to negotiate an extension of a lease up to an additional twenty-five years to enable a

lessee that is an association of apartment owners to meet the replacement reserve fund requirements of the State condominium law.

Supportive testimony was submitted by a concerned individual. Comments were also submitted by the BLNR.

State leases have a maximum term of sixty-five years. This measure will provide the BLNR with the authority to extend the lease under certain limited circumstances. The type of lease qualifying for an extension under this provision:

- (1) Has an unexpired term of less than twenty years;
- (2) Is a lease of public land being subleased as residential apartments in a condominium property regime that was converted from hotel use prior to the enactment of the State's replacement reserve fund requirements; and
- (3) Requires an extension in order to enable the condominium owners/sublessees to obtain financing to meet the replacement reserve requirement or to undertake capital expenditures, major maintenance, or rehabilitation projects.

The Legislature has previously adopted legislation authorizing the extension of a state lease when warranted by special circumstances. Your Committee finds that the circumstances underlying the introduction of this measure also justify granting the BLNR the authority to execute a lease renegotiation. With extended leases, apartment owners may be able to negotiate long-term financing in order to comply with the replacement reserve law. Without this opportunity, foreclosures may result.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2482 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona and Pendleton.

**SCRep. 717-98 Consumer Protection and Commerce on H.B. No. 3278**

The purpose of this bill is to prevent lenders from charging exorbitant insurance rates for force-placed or vendor's single interest insurance by:

- (1) Placing a cap on the rates charged to the buyer;
- (2) Requiring a refund of premium payments paid by the buyer on the forced-placed insurance policy when the buyer obtains another policy; and
- (3) Requiring that the method used to calculate the refund to be reimbursed to the buyer be as favorable to the buyer as the actuarial method and prohibiting the use of the "rule of 78" method of calculation.

The Department of Commerce and Consumer Affairs testified in support of the bill with suggested amendments. The American Association of Retired Persons and a concerned individual testified in support of the measure.

It is your Committee's understanding that lenders who require insurance on their loans will often use forced-placed insurance to protect their interests if the consumer fails to purchase insurance or allows the existing policy to lapse. The lender will then bill the buyer for the premium which may include coverages not required by their credit agreements, additional costs incurred by the lender, or financing arrangements that are least cost-effective for the buyer.

Your Committee finds that this measure will protect the consumer from unfair practices used by lenders charging premiums for forced-placed insurance and provide that refund calculations be fair and not favor the lender.

In accordance with the testimony submitted by the Department of Commerce and Consumer Affairs, your Committee has amended this bill by:

- (1) Clarifying that this measure pertains to forced-placed insurance for motor vehicle insurance; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3278, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3278, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Tom, Yoshinaga and Whalen

**SCRep. 718-98 Consumer Protection and Commerce on H.B. No. 3288**

The purpose of this measure is to amend: (1) Section 421J-2, Hawaii Revised Statutes (HRS), by excluding time share plans from the definition of a "planned community"; (2) Section 421J-4, HRS, by specifying that the technical requirement pertaining to boxes which must be placed on planned community association proxies apply only to standard proxy forms authorized by the planned community association; and (3) Section 607-14, HRS, by clarifying that cooperative housing corporations, associations of apartment owners, and time share owners associations are permitted to recover attorney's fees and costs.



Supportive testimony was submitted by Neeley & Anderson Attorneys at Law, and a concerned individual.

Testimony indicated that the proposed amendments will:

- (1) Clarify ambiguities in the current definition of a "planned community";
- (2) Allow for the avoidance of potential problems regarding improperly completed planned community association proxy forms submitted by unit owners; and
- (3) Allow for attorneys' fees to be recovered by a cooperative housing corporation, an association of apartment owners, time share association, or a planned community association.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3288, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Cachola, Tom, Yoshinaga and Whalen.

**SCRep. 719-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3163**

The purpose of the bill is to afford consumers of managed care certain protections by requiring that:

- (1) Mutual benefit societies provide specific information to their members and maintain the confidentiality of their members' medical information; and
- (2) Health maintenance organizations:
  - (a) Establish enrollee grievance procedures;
  - (b) Are prohibited from imposing "gag orders" on health care providers;
  - (c) Establish utilization review procedures; and
  - (d) Demonstrate that their health plans provide accessibility to certain services or coverage.

Testimony on the measure was received from several individuals and the following agencies or organizations: Department of Commerce and Consumer Affairs (DCCA), American Association of Retired Persons, Hawaii Medical Association, the Hawaii Public Health Association, National Association of Social Workers, Hawaii Medical Service Association, and Kaiser Permanente.

The provisions of this bill will give participants in managed care plans greater access to information in order to make informed decisions about health care coverage, protect patient confidentiality by restricting access to medical information, and establish minimum grievance procedures for health maintenance organizations. A prohibition on "gag orders" will allow health care providers to discuss treatment outside of the scope of a patient's care without penalty, and the establishment of minimum standards for utilization review should result in better quality of care for consumers and more efficient provision of services.

The DCCA proposed amendments to address certain concerns raised about the bill, including the lack of specific timeframes in grievance procedures. Additionally, Kaiser Permanente proposed that the bill incorporate consumer protection standards relating to accreditation of health plans, quality reporting, and consumer responsibilities. Accordingly, your Committees have amended the bill by:

- (1) Establishing patient protections for enrollees in managed care plans in a new chapter to Title 24, Hawaii Revised Statutes (HRS), rather than by amendments to Chapters 432 and 432D, HRS; and
- (2) Including in the new chapter provisions requiring that:
  - (a) Health plans adopt and comply with nationally developed and promulgated standards for measuring quality, outcomes, access, satisfaction, and utilization of services;
  - (b) As of the year 2000, health plans be accredited by the National Committee for Quality Assurance in order to be issued or renew a certificate of authority; and
  - (c) Requiring consumers of health care services to comply with certain enumerated responsibilities.

Your Committees acknowledge that concerns were raised about the requirements established in the consumer protection standards, including the substantial cost of obtaining accreditation, and the difficulties of preferred provider organizations in complying with the quality reporting requirements. However, your Committees believe that these provisions have merit and warrant further discussion.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3163,

as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3163, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Cachola, Hiraki, Tom, Yoshinaga and Whalen.

**SCRep. 720-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3433**

The purpose of this bill is to:

- (1) Amend the Gold and Silver Stamping Act, Chapter 482D, Hawaii Revised Statutes (HRS), to create an unfair or deceptive practice under section 480-2, HRS, relating to the use of the word "platinum"; and
- (2) Include branding and engraving within the permitted methods of applying a trademark to an article.

Supportive testimony was received from Carats & Karats Fine Jewelry. Testimony in opposition to the bill was submitted by the Department of Commerce and Consumer Affairs (DCCA), Liberty House, the Retail Merchants of Hawaii, the International Association for Exposition Management, Douglas Trade Shows, and a concerned individual.

This bill creates a new section in Chapter 482D, HRS, that treats platinum and related products in a manner completely different from gold and silver products, by establishing that the misleading use of the word "platinum" is an unfair and deceptive practice under section 480-2, rather than a violation of Chapter 482D, HRS. DCCA testified that this bifurcation of enforcement would result in a waste of government resources, especially given the levels of expertise necessary to determine violations. Further, platinum violations would not be subject to the criminal forfeiture laws under the language of the bill. The proposed provisions are unnecessary because DCCA is currently able to enforce Federal Trade Commission guidelines relating to platinum.

Concerns were also raised about the provision in the bill narrowing the definition of the word "stamped" to require that a quality mark or trademark be stamped, engraved, or branded on the article itself. Currently, the law allows marks to be made on tags or labels affixed to or displaying the product. Members of the retail, jewelry, and tradeshow industries testified that prohibiting the sale or possession of gold and silver products not displaying marks directly on the product themselves would unduly burden merchants and exhibitors and affect commerce in the State.

Upon careful consideration of these concerns, your Committees have amended the bill to effectuate its original intent by requiring that the sale, or importing or exporting of platinum products be conducted in compliance with Federal Trade Commission Guidelines.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3433, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3433, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Cachola, Garcia, Hiraki, Saiki, Yoshinaga, Pendleton, Thielen and Whalen.

**SCRep. 721-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2506**

The purpose of this bill is to establish an alternate, nonjudicial power of sale foreclosure process.

Realty Finance, Inc., Maui Finance Company, Hawaii Credit Union League, Hawaii Council of Association of Apartment Owners, Hawaii Land Title Association, the Hawaii Legislative Action Committee of the Community Associations Institute, Territorial Savings, Title Guaranty of Hawaii, and several private companies and individuals testified in support of the bill. The Hawaii Financial Services Association supported the bill with suggested amendments. The Department of Commerce and Consumer Affairs, the American Association of Retired Persons, and two individuals testified in opposition to the bill. Several individuals submitted comments on the measure.

This measure will establish an additional method by which a lender can foreclose on a mortgage under a power of sale without filing a lawsuit. The current foreclosure process requires the involvement of the judicial process which can be time-consuming and costly. Although there exists a nonjudicial foreclosure procedure for lenders, it is rarely used due to problems which have not been resolved.

Your Committees find that this measure addresses many of the problems which plague the current nonjudicial foreclosure process and believe this measure will provide an improved method for nonjudicial foreclosure which will ultimately reduce the time and cost of the foreclosure process.

Your Committees have amended this bill in an attempt to balance the streamlining of the foreclosure process with safeguards established to protect the consumer.

Specifically, some of the key amendments include:

- (1) Clarifying that the new power of sale foreclosure is an alternative process to the existing power of sale foreclosure law;
- (2) Narrowing the definition of "foreclosing mortgagee" to ensure the process is utilized as intended;

- (3) Requiring that the lender follow the same notification requirements as in the judicial foreclosure process and that the lender record notice of default with the Bureau of Conveyances;
- (4) Requiring the lender to provide notice to the borrower of the default and sale, as well as an estimate of legal costs and attorney fees that will be incurred by the lender in order to cure the default;
- (5) Clarifying the public sale requirements, including the time period of notice, posting of notice, and additional parties required to be notified of the impending public sale;
- (6) Allowing the sale of the mortgaged property to be outside the county where the property is located if agreed to by the foreclosing mortgagee, borrower, mortgagor, and any other guarantor;
- (7) Clarifying that the foreclosing mortgagee and borrower may bid on the mortgaged property at the public sale;
- (8) Providing that a borrower, guarantor, or junior lienholder has the right to file an appeal to the Circuit Court where the property is located to contest the assumed provisions of the foreclosure such as fair market price, legal or fair conduct, or validity of the purchaser;
- (9) Allowing the foreclosing mortgagee, borrower, mortgagor, or any guarantor to bring legal action to enforce the provisions of the power of sale foreclosure law;
- (10) Deleting references to the existing power of sale foreclosure law; and
- (11) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2506, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2506, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Tom, Hiraki, Aiona and Pendleton.  
(Representative Thielen voted no.)

**SCRep. 722-98 Finance on H.B. No. 2426**

The purpose of this bill is to amend the law on individual housing accounts (IHA) by:

- (1) Allowing individuals who opened an IHA prior to the enactment of Act 99 (1990), to be eligible for the gross income deferral and tax liability provisions effective when the original investment was made; and
- (2) Conforming section 235-5.5(f), Hawaii Revised Statutes, to the widely accepted and published interpretation of the law.

The Department of Taxation testified in support of this measure. The Tax Foundation of Hawaii commented on this bill.

Your Committee amended this bill by making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2426, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2426, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ahu Isa.

**SCRep. 723-98 Finance on H.B. No. 3229**

The purpose of this bill is to amend the Hawaii Public Procurement Code by:

- (1) Making the lowest bid price a requirement in the award of contracts for professional services; and
- (2) Allowing for negotiation of contracts with any two qualified bidders provided the contract is for professional services of less than \$5,000, rather than \$25,000.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3229 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative White.

**SCRep. 724-98 Finance on H.B. No. 3246**

The purpose of this bill is to allow the use of the following methods of source selection for public concession contracts:

- (1) Competitive sealed bidding, except that the award under this method must be made to the highest responsive bid;  
or

- (2) Competitive sealed proposals, except that the award under this method must be made to the responsible offeror submitting the proposal most advantageous to the State as specified in the Hawaii Public Procurement Code.

This measure also provides that when the competitive sealed bidding method is used, the opening of bids must be made not fewer than ten days after the last publication.

The City and County of Honolulu testified in support of the measure. The Department of Transportation testified in opposition to the measure.

Your Committee has amended this bill by deleting the substance and inserting new material that allows the State and the counties to use the competitive sealed proposals method of contract source selection as established in section 103D-303, Hawaii Revised Statutes, for public concessions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3246, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Ahu Isa, Goodenow and Fox.

**SCRep. 725-98 Finance on H.B. No. 2750**

The purpose of this bill is authorize the issuance of general obligation bonds and to declare that the total amount of principal and interest estimated and calculated for all bonds issued and outstanding will not cause the State's debt limit to be exceeded at the time of issuance.

This bill is intended to meet the requirements of Article VII, Section 13, of the Constitution of the State of Hawaii, which specifies that the Legislature must include a declaration of findings that the debt limit will not be exceeded by legislatively authorized general obligation issuances.

Your Committee amended this bill by making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2750, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2750, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 726-98 Finance on H.B. No. 2758**

The purpose of this bill is to improve the efficiency of the public procurement law by:

- (1) Consolidating procurement provisions by removing related provisions from Chapter 103, Hawaii Revised Statutes (HRS), which relates to the expenditure of public money and public contracts and inserting them into Chapter 103D, HRS;
- (2) Exempting contracts for professional services and service contracts for \$25,000 or less from wage, hour, and working condition requirements; and
- (3) Making numerous amendments to the procurement code for clarity and conformity.

The State Procurement Office, Network Enterprises, Hilo Vocational Rehabilitation Program, the Kona Association for Retarded citizens, Goodwill Industries, Opportunities for the Retarded, Lanakila Rehabilitation Center, and Ka Lima o Maui testified in support of this measure.

Your Committee has made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2758, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2758, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang and Ward.

**SCRep. 727-98 Judiciary on H.B. No. 1160**

The purpose of this bill is to restrict campaign sign waving to no more than two people at any one site.

As amended by your Committee, this bill lowers the amount a person or any other entity may contribute to a political party and to subject a political party and a national affiliate of a political party to the same limits as individuals or other entities regarding contributions to candidates.

Your Committee received testimony in support of this bill from the Campaign Spending Commission, the University of Hawaii Professional Assembly, and Legislative Information Services of Hawaii. The Hawaii Republican Party, Linda Lingle Campaign Committee, and a concerned individual testified in opposition to this bill.

Your Committee finds that there is a big loophole in the laws governing campaign contribution. This loophole allows candidates to circumvent campaign contribution limits by receiving contributions through political parties. It also allows parties to circumvent limits by receiving money from national affiliates.

Your Committee is concerned that national affiliates of political parties often redirect "soft money" to local candidates. "Soft money" is money given to a national party for party-building activities which cannot be used in federal elections because either the contribution exceeds federal limits, or it comes from sources which cannot contribute to federal elections.

Your Committee believes it is important to close the "soft money" loophole and address the potentially disproportionate impact of national political party "soft money" on Hawaii elections. Your Committee finds it is important to limit how much can be given to parties by individuals and national affiliates.

For example, under current law, a political party can contribute up to \$50,000 a year to a candidate for governor. This amount should be limited to \$6,000 per election period just like every other contributor.

Likewise, under current law, a party can contribute up to \$15,000 a year to a candidate for State representative. This contribution should be limited to \$2,000 per election period just like every other contributor.

Finally, your Committee believes there should be a lower limit on the amount an individual or entity other than a national affiliate can give to a political party. Currently, they can contribute up to \$50,000 a year. This amount should be reduced to \$6,000 in any 2-year election period.

Your Committee also believes this approach is fair because it applies equally across the board to all candidates and all parties, and will severely limit the ability of big money special interests to influence elections. This bill levels the playing field.

Your Committee wants to send a strong message that the soft money from the mainland will not control Hawaii politics. Hawaii's elections should be kept in the hands of the people of Hawaii.

Therefore, your Committee has amended this bill by:

- (1) Removing those portions of the bill relating to campaign sign waving;
- (2) Adding a new definition of "national affiliate of a political party" to the campaign spending and contribution laws;
- (3) Amending the definition of "contribution" to include payments or contributions to be used by committees for the purposes of influencing a local election;
- (4) Including local and national political parties under the contribution limits applicable to all other individuals and committees in this State;
- (5) Repealing that section of the law that permits parties to make contributions twelve times the limit applicable to all other entities within the State;
- (6) Amending the provisions of current law, which requires contributions controlled or directed by any other persons to be attributed to the controlling person, to include local and national political parties; and
- (7) Limiting contributions to local political parties made by persons or other entities, to \$6,000 per two year election period, except for those made by national parties, which remain subject to the current \$50,000 limit for that same period.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1160, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1160, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki and Menor.  
(Representatives Pendleton, Thielen and Whalen voted no.)

**SCRep. 728-98 Finance on H.B. No. 2552**

The purpose of this bill is to use government resources more efficiently by prohibiting the filling of vacant State civil service positions unless the Governor determines that the position is critical and the Governor reports this determination to the Legislature.

The Judiciary, the Department of Budget and Finance, and the Department of Education testified in opposition to this bill.

Your Committee has amended this bill by:

- (1) Including the Chief Justice in determining whether a position is to be filled and in reporting to the Legislature detailed reasons upon which the Chief Justice's determination was based in filling the position; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2552, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2552, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Ward.

**SCRep. 729-98 Finance on H.B. No. 2399**

The purpose of this bill is to broaden the State tax base and level the playing field for similarly situated taxpayers by:

- (1) Repealing certain exemptions from the general excise tax (GET);
- (2) Imposing a preferential 1.5 percent GET rate on those formerly exempt from the GET; and
- (3) Establishing a Compliance Special Fund (Special Fund) into which a portion of the taxes collected at the preferential 1.5 percent GET rate shall be deposited. The moneys in the Special Fund will be used for compliance and enforcement purposes of all taxes.

The Department of Business, Economic Development, and Tourism supported the intent of this bill.

The Hawaii State Commission on the Status of Women, the Healthcare Association of Hawaii, the Hawaii Hotel Association, the Retail Merchants of Hawaii, Hawaii Lawyers Care, the Building Industry Association of Hawaii, the American Council of Life Insurance, the Hawaii Association of Realtors, the Hawaii Transportation Association, Matson Navigation Company, the Hawaii Catholic Conference, Christian Voices of Hawaii, the Hawaii Museums Association, the Honolulu Academy of Arts, the Honolulu Symphony, Na Leo Pohai, the National Society of Fund Raising Executives, the Policy Advisory Board for Elderly Affairs, the Hawaii Association of Independent Schools, Hawaii Pacific University, University of the Nations Youth With a Mission, Kaiser Permanente, Hawaii Right to Life, the Honolulu Community Action Program, Hawaii Island Humane Society, Hawaiian Humane Society, Community Work Day Program, the Maui Humane Society, the Maui Non-profit Executive Directors Association, the Contractors Association of Kauai, the Maui United Way, the Department of the Budget of the City and County of Honolulu, Hawaiian Electric Industries, Hawaii Assemblies of God, Outrigger Enterprises, Parents and Children Together, the Department of Public Works of the City and County of Honolulu, the Girl Scout Council of Hawaii, and several individuals opposed this bill.

The Department of Taxation, the Department of Housing and Community Development of the City and County of Honolulu, the Tax Foundation of Hawaii, the Aloha Society of Association Executives, the League of Women Voters of Hawaii, Hawaii Medical Service Association, YWCA Oahu, Kauai Economic Opportunity, and several individuals submitted comments.

This measure is based on recommendations made by the the Tax Review Commission in its 1997 report. Your Committee finds that during these times of economic hardship, in the interest of fairness and equity, the implementation of a preferential GET rate will expand the tax base and ensure full participation in the tax system. Further, your Committee views this measure as a means of continuing discussion on changing the State's fiscal policy, including the reduction of the four percent GET.

As amended by your Committee, this measure:

- (1) Replaces the 1.5 percent preferential tax rate with a blank amount for purposes of continued discussion;
- (2) Removes the GET exemption for the following:
  - (A) Fraternal benefit societies, orders, or associations operating under the lodge system;
  - (B) Mutual benefit societies;
  - (C) Hospitals, infirmaries, and sanitarium;
  - (D) Cooperative associations incorporated under chapter 421, Hawaii Revised Statutes;
  - (E) Corporations, companies, associations, or trusts operating cemeteries;
  - (F) Amounts received under life insurance policies;
  - (G) Amounts received under life insurance, endowment, or annuity contracts;
  - (H) Value of property acquired by gift, bequest, devise, or inheritance;
  - (I) Amounts received as compensatory damages from torts;
  - (J) Amounts from loading ships, tugboat services, and transportation of pilots or government officials;
  - (K) Amounts from employee benefits plans;
  - (L) Amounts from hospitals, etc., for selling prescription drugs or prosthetic devices;
  - (M) Real property leased by labor organizations; and

- (N) Transactions of an exchange or board of trade;
- (3) Retains the GET exemption for all other categories;
- (4) Includes a reporting requirement for persons claiming a GET exemption;
- (5) Waives the \$20 GET license fee for nonprofit organizations;
- (6) Provides that nonprofit organizations with annual gross receipts of less than \$30,000, including exempt activity income, do not need to file an annual GET return; and
- (7) Makes technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2399, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2399, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representatives Fox, Marumoto and Ward voted no.)

**SCRep. 730-98 Finance on H.B. No. 2558**

The purpose of this bill is to create a more efficient system of land use planning by eliminating the Land Use Commission (LUC) and transferring its functions to the counties, which must comply with specified planning procedures, and to the Department of Land and Natural Resources (DLNR).

Many citizens and organizations representing a cross section of our community presented testimony on this measure. Your Committee appreciated the many and sometimes conflicting views that were expressed. Testimony in support of this measure was submitted by DLNR, the Honolulu Planning Department, the Department of Land Utilization of the City and County of Honolulu, the Planning Department of the County of Hawaii, Molokai Ranch, the Malama Group, the Hawaii Chapter of the American Society of Landscape Architects, Outrigger Enterprises, the Kona-Kohala Chamber of Commerce, the Contractors Association of Kauai, Aczon Construction, Princeville Resort, Associated Builders and Contractors, John M. Knox and Associates, the Hawaii Chapter of the American Planning Association, Maui Land and Pineapple Company, The American Institute of Architects - Hawaii State Council, KRP Info Services, the Consulting Engineers Council of Hawaii, Makai Village Partnership, the Gentry Companies, Hawaii Reserves, the Building Industry Association of Hawaii, the Hawaii Association of Realtors, Pacific Resource Partnership, Plumbers and Fitters Local 675, Castle and Cooke, the Estate of James Campbell, the Hawaii Business Roundtable, the Land Use Research Foundation of Hawaii, Alexander and Baldwin, and an individual. The Department of Transportation, the Hawaii Bankers Association, and the Hawaii Leeward Planning Conference testified in support of the intent of this measure. The LUC, the Board of Land and Natural Resources, the Maui Office of the Mayor, the Hawaii Habitat for Humanity Association, the Big Island Farm Bureau, and an individual commented on this measure. Testimony in opposition to the measure was submitted by the Office of Hawaiian Affairs, the Hawaii Chapter of the Sierra Club, the League of Women Voters of Hawaii, Hawaii's Thousand Friends, the Hawaii Audubon Society, No Leo Pohai, the Hawaii Farm Bureau, ILWU Local 142, and an individual.

Your Committee finds that Hawaii's economy has been mired in an economic slump for seven consecutive years now. The State's lagging economy has resulted in significant job losses, declining wages and salaries, business closures, and a flat tax base and real income. Your Committee further finds that these factors have imposed real day-to-day hardships on the community at-large.

Recognizing that to do nothing would be tantamount to further economic hardship and failure, during the summer of 1997, the Governor, the Senate President, and the House Speaker convened a group of top business, labor, and community leaders to look at ways of improving Hawaii's ailing economy in the short- and long-term by tackling the State's tough economic issues. Known as the Economic Revitalization Task Force (Task Force), the twenty-six members of this group worked long and hard to come up with an integrated economic reform package, which was presented to the Nineteenth Legislature prior to the start of the 1998 Regular Session. The premise of the Task Force's recommendations rested on four objectives: reducing the cost of living and doing business in Hawaii, improving the regulatory climate and efficiency of government, strengthening the marketing and promotion of the State's key industry: tourism, and making structural changes to improve Hawaii's education system. These objectives led the Task Force to make several recommendations to improve the ailing economy in the areas of taxes, regulations, education, tourism, government services, and Hawaiian issues.

Your Committee acknowledges with appreciation the contributions of the many people, including the members of the Task Force and its several work groups, who volunteered their time and expertise in working together to help move our economy forward.

This bill is part of the Task Force's recommendation to improve the regulatory climate in Hawaii.

Your Committee recognizes that government regulation and oversight are often necessary to protect the public interest and natural resources. However, your Committee also recognizes that when these regulations unnecessarily proliferate and compound, they tend to impede and restrict the activities of business, and even government itself.

Upon careful consideration, your Committee has amended the bill by:

- (1) Retaining LUC;

- (2) Making LUC, rather than DLNR, responsible for conducting conservation district boundary amendment proceedings;
- (3) Making LUC, rather than the Office of Planning, responsible for a variety of functions, such as evaluating county plans, adopting statewide planning and development standards to supplement those contained in this bill, and certifying revisions of maps designating important agricultural lands;
- (4) Clarifying that boundary amendment petitions to reclassify land to or from the conservation district be processed in accordance with state administrative procedures contained in Chapter 91, Hawaii Revised Statutes; and
- (5) Making technical, nonsubstantive revisions.

Your Committee finds that this bill, as amended, will help eliminate time consuming and costly duplication in the area of land use regulation and streamline the land use process, while maintaining necessary environmental safeguards.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2558, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2558, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Ahu Isa and Goodenow.

**SCRep. 731-98      Finance on H.B. No. 2568**

The purpose of this bill is to implement one of the key recommendations of the Economic Revitalization Task Force (Task Force).

This bill seeks to restructure Hawaii's tax system.

Your Committee finds that Hawaii's economy has been mired in an economic slump for seven consecutive years. As a result of the State's lagging economy, there have been significant job losses, declining wages and salaries, business closures, and a flat tax base resulting from a drop in real income. Your Committee further finds that these factors have imposed considerable day-to-day hardships on the community at-large.

Recognizing that to do nothing would be tantamount to further economic hardship and failure, the House Speaker, the Senate President, and the Governor convened a group of top business, labor, and community leaders to look at ways of improving Hawaii's ailing economy during the summer of 1997. Known as the Economic Revitalization Task Force (Task Force), the twenty-six members of this group worked long and hard to come up with an integrated economic reform package, which was presented to the Nineteenth Legislature prior to the beginning of the 1998 Regular Session.

The premise of the Task Force's recommendations rested on four objectives:

- (1) Reducing the cost of living and doing business in Hawaii;
- (2) Improving the regulatory climate and efficiency of government;
- (3) Strengthening the marketing and promotion of tourism, the State's key industry; and
- (4) Making structural changes to improve Hawaii's education system.

These objectives led the Task Force to make several recommendations to improve the ailing economy in the areas of taxes, regulations, education, tourism, government services, and Hawaiian issues.

Your Committee acknowledges with appreciation the contributions of the many people, including the members of the Task Force and its several work groups, who volunteered their time and expertise in working together to help move our economy forward.

Your Committee recognizes that the Task Force economic reform package is the only comprehensive package currently before the Legislature. The Task Force proposals are intended to facilitate further discussion, deliberation, and consensus-building efforts to do something positive and proactive for the state economy.

Notwithstanding that there are still a multitude of concerns to be addressed, indifference, inaction, and inertia are not viable options at this time. In recognition of urgency of this situation, your Committee realizes that much needs to be done in the remaining days of this legislative session to revitalize Hawaii's ailing economy.

Many citizens and organizations representing a cross section of our community presented testimony on this measure. Your Committee appreciated the many and sometimes conflicting views that were expressed. The Governor's Administration, the Task Force, the Retail Merchants of Hawaii, the Building Industry Association of Hawaii, and the AIA Hawaii State Council supported this measure. The Hawaii Government Employees Association supported the intent of this measure. The Department of the Budget of the City and County of Honolulu, the Small Business Hawaii Legislative Action Committee, the Hawaii Association of Realtors, and several individuals opposed this measure. The Tax Foundation of Hawaii, National Federation of Independent Business, Legislative Information Services of Hawaii, the League of Women Voters of Hawaii, American Association of Retired Persons, and several individuals submitted comments.

Upon careful deliberation and full discussion, your Committee has amended this bill by:



- (1) Reducing personal income tax rates by:
  - (A) Lowering the top rate of 10 percent to 8.5 percent and lowering the rates for the lowest tax brackets by 25 percent in the first two years of implementation; and
  - (B) Further lowering the top rate to eight percent in the third year and the rates for the lower brackets by 35 percent;
- (2) Establishing a new refundable low-income tax credit;
- (3) Eliminating the proposed reductions to the corporate and franchise tax rates;
- (4) Providing for a new GET rate of 4.5 percent;
- (5) Eliminating provisions reducing tax pyramiding except for the GET deduction on sublease transactions;
- (6) Increasing the use tax from four to 4.5 percent; and
- (7) Making other technical, nonsubstantive amendments.

The significant reduction in the income tax rates will provide \$229 million savings in the first two years and \$323 million savings from the third year on. The net result of replacing the food tax credit with the new refundable low income tax credit will be an additional \$42 million in tax relief for the lower income taxpayers. The savings from these two major tax reforms will more than offset the impact of the raising of the GET by one half of one percent.

Because of the significant reduction in the personal income tax rates provided in this bill, your Committee strongly recommends to Hawaii's employers to lower the income tax withheld from their employees' paychecks to provide immediate tax relief to Hawaii's people.

Your Committee finds that this bill, as amended, will provide for the long term benefit of the State.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2568, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2568, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

(Representatives Ahu Isa, White, Fox, Marumoto, Meyer and Ward voted no.)

**SCRep. 732-98 Consumer Protection and Commerce on H.B. No. 2814**

The purpose of this bill is to provide equity in licensure for senior psychologists who relocate to Hawaii by authorizing the issuance of a license when:

- (1) The jurisdiction in which the psychologist was previously licensed required the Examination for Professional Practice in Psychology (EPPP) and the exam score achieved was equal to or higher than the Board required exam score set during the same period the EPPP was taken; and
- (2) The period of consecutive licensure held by the applicant totals at least twenty years, regardless of the specific jurisdictional area within the United States or Canada.

Testimony in support of the bill was submitted by the Board of Psychology and the Hawaii Psychological Association.

It is your Committee's understanding that since most states now require the EPPP to qualify for licensure, Hawaii's current law, regarding senior psychologists, which allows only psychologists who obtained licensure in jurisdictions that did not require the EPPP, is outdated. Accordingly, your Committee finds that this law requires amendment to reflect the current standards of licensure.

In addition, the current law excludes from qualification applicants whose experience may meet the twenty-year time period of licensure but were licensed in multiple jurisdictions over that time period. Your Committee believes the twenty-year licensure requirement should apply to experience in the field without regard to the location of the experience. Hence, allowing senior psychologists to comply with the experience requirement in different jurisdictions is acceptable; provided their experience is consecutive and within the United States or Canada.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2814 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 733-98 Consumer Protection and Commerce on H.B. No. 2768**

The purpose of this bill is to continue the competitive pricing of milk produced in Hawaii by deleting the sunset date for provisions allowing the Board of Agriculture to adopt by rule specific formulas and criteria for determining minimum prices to be paid to milk producers.

The Department of Agriculture and the Hawaii Fresh Milk Industry testified in support of the bill.

Your Committee finds that the practice of setting the minimum price of milk paid to producers by formula has been successful in maintaining competitive prices with imported milk. Moreover, this practice is acceptable to the local milk industry.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2768 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Tom, Aiona, Pendleton and Whalen.

**SCRep. 734-98 Consumer Protection and Commerce on H.B. No. 2627**

The purpose of this bill is to state that the purpose of the licensing and regulation of private trade, vocational, and technical schools is to protect consumers and help ensure adequate educational quality.

The State Auditor testified in support of this measure.

Your Committee finds that this measure will protect students and potential students of private trade, vocational, and technical schools. By adding a purpose statement in section 302A-425, Hawaii Revised Statutes, regarding the licensing of private trade, vocational, or technical schools, this bill clarifies the intended reason for regulation and provides a basis for determining the effectiveness of the licensing program.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2627 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Cachola, Case, Saiki, Tom, Yoshinaga and Pendleton.

**SCRep. 735-98 Judiciary on H.B. No. 2866**

The purpose of this bill is to:

- (1) Monitor and ensure compliance with Chapter 104, Hawaii Revised Statutes; and
- (2) Authorize the Department of Labor and Industrial Relations to penalize employers who do not timely submit records and information or who interfere with or delay an investigation.

The Department of Labor and Industrial Relations testified in support of the bill.

Your Committee finds that investigations to determine compliance with employment laws have been hindered by contractors who delay or deny access to records or other requested information. Your Committee believes that assessing a \$1,000 per project and an additional \$100 per day penalty will ensure compliance.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2866 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 736-98 Judiciary on H.B. No. 3185**

The purpose of this bill is to authorize the police to issue a notice of administrative revocation of a driver's license to a motorist if the police determine, based on blood test information received from the medical facility where a motorist is treated after being involved in a motor vehicle accident, that there is probable cause to believe that the motorist was driving under the influence of intoxicating liquor at the time of the accident.

The City and County of Honolulu, the Maui Police Departments, and Mothers Against Drunk Driving testified in support of the measure.

Your Committee finds that driving while intoxicated (DUI)-related accidents are on the rise.

Your Committee further finds that in 1997, the Legislature enacted Act 101, Session Laws of Hawaii, which allowed for the identification of alcohol-impaired drivers who are taken to a medical facility after a collision. Under Act 101, medical personnel are required to notify police if they determine that a person's blood alcohol level was over the legal limit and said person was involved in a motor vehicle accident. Although this Act addressed the need to identify drunk drivers, it did not provide police with the ability to begin the administrative license revocation process. As a result, these drivers escaped driver's license revocation proceedings and were allowed to drive until their criminal cases were adjudicated in court.

Your Committee finds that in the past two years, 309 motor vehicle collisions were related to DUI drivers who had gone to medical facilities for treatment and who thus avoided the revocation of their drivers' licenses for periods of several months.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3185, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 737-98 Ocean Recreation and Marine Resources on H.B. No. 3291**

The purpose of this bill is to expand the role of the Board of Land and Natural Resources (BLNR), as received by your Committee, to investigate and develop traditional or subsistence management practices for government-owned Hawaiian fish ponds.

Testimony in favor of this measure was received from BLNR, the Oahu Council of the Association of Hawaiian Civic Clubs, and the Office of Hawaiian Affairs (OHA), which submitted additional comments.

Your Committee finds that it is important to have OHA involved in discussions regarding the disposition of Hawaiian fish ponds. The chair of the BLNR expressed his commitment to your Committee that he would recommend to BLNR a policy stating that OHA be included in the preparation of any submittal relating to Hawaiian fish ponds. The chair of BLNR was clear that OHA needs to be involved early in the process as it relates to these fish ponds. With this commitment, OHA and BLNR agreed to work together without any statutory mandates.

After discussion, your Committee passed this measure unamended.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3291, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Goodenow, Yoshinaga and Meyer.

**SCRep. 738-98 Consumer Protection and Commerce on H.B. No. 2816**

The purpose of this measure is to amend sections 461-6 and 461-7(a), Hawaii Revised Statutes, by:

- (1) Replacing the specific names and minimum passing scores of the licensure examinations with language that will allow the Board of Pharmacy to continue utilizing the national examinations that periodically undergo changes in name and passing score format; and
- (2) Making nonsubstantive housekeeping amendments.

Supportive testimony was submitted by Longs Drugs and the Board of Pharmacy, Department of Commerce and Consumer Affairs.

Testimony indicated that this Administration measure will allow the Board to accommodate changes in examination names and dates, to set passing score standards, and to provide for the flexibility for computer-adaptive testing. The Board will be able to continue to utilize nationally standardized licensure examinations, rather than developing its own licensure examinations, thereby saving departmental funds.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2816 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 739-98 Consumer Protection and Commerce on H.B. No. 2817**

This measure amends sections 461-12 and 461-13, Hawaii Revised Statutes (HRS), by updating provisions relating to pharmaceutical reference material and recordkeeping and making nonsubstantive housekeeping changes.

Supportive testimony was submitted by Long's Drugs and the Board of Pharmacy, Department of Commerce and Consumer Affairs.

The bill proposes to amend section 461-12, HRS, by deleting the name of a specific pharmaceutical reference material and replacing it with general language to allow the Board of Pharmacy the flexibility to update required pharmaceutical reference material and equipment as changes in the industry occur. Section 461-13, HRS, is amended by deleting references to specific modes of recordkeeping and replacing these with general language to allow various forms of recordkeeping.

Testimony indicated that the proposed amendments will allow the Department of Commerce and Consumer Affairs to utilize the Board of Pharmacy's expertise in developing administrative rules that identify and specify required pharmaceutical reference materials and recordkeeping methods necessary for the health and welfare of the public.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2817 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Tom, Aiona, Pendleton and Whalen.

**SCRep. 740-98      Judiciary on H.B. No. 2529**

The purpose of this bill is to propose that Article III, section 6, of the Constitution of the State of Hawaii be amended to require that candidates running for State office must, prior to filing nomination papers, be qualified voters in the district from which they seek to be elected.

The Office of Elections, Common Cause Hawaii, the League of Women Voters of Hawaii, and the Democratic Party of Hawaii testified in support of the bill.

Your Committee finds that currently, candidates have until the day of the general election to meet constitutional qualifications for office, and are not required to become qualified voters in the district from which they seek to be elected until after the results of the primary election are known. Your Committee believes that this bill will improve public confidence in the election process because it eliminates a candidate's ability to move to an election district only after a favorable result in the primary election.

Your Committee has amended this measure by providing that incumbents shall not be disqualified from serving the remainder of their term when reapportionment displaces the incumbent from the district from which the incumbent was elected. Your Committee also amended this measure by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2529, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2529, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Menor and Whalen.

**SCRep. 741-98      Judiciary on H.B. No. 2878**

The purpose of this measure is to amend or repeal certain aquatic resources laws related to licenses, permits, bag limits, sales restrictions, prohibitions, open and closed seasons, fishing gear, area restrictions and net sizes, and to transfer authority to the Department of Land and Natural Resources (DLNR) to adopt administrative rules implementing or replacing the amended and/or repealed statutes.

Your Committee received testimony in support of this measure from representatives of the DLNR, Rick Gaffney & Associates, Inc., Western Pacific Regional Fishery Management Council, Hawaii Audubon Society, Big Island Fishermen's Association, East-West Center, Hawaii Fishermen's Foundation, Waialua Boat Club, Haleiwa Harbor Boat Owners Association, and several concerned individuals. The University of Hawaii at Manoa submitted comments supporting the intent of this measure.

Your Committee received testimony in opposition to this measure from several concerned fishermen.

Your Committee finds that much of the law governing aquatic life is outdated and should be amended to reflect current practices and beliefs.

Your Committee is also aware that when dealing with aquatic resources, DLNR needs to act quickly and often cannot wait until the Legislature meets for session. Your Committee believes that while the transfer of rulemaking authority to DLNR may allow more active participation by, and provide notice to those most affected by State regulation, delegation of this type of legislative power and oversight should be done responsibly and incrementally. Your Committee is hesitant to completely wipe out these statutes and replace them with administrative rules in one fell swoop without any historical assurances that this new type of rulemaking authority will be implemented in a responsible manner.

Your Committee believes that it has a duty to develop legislation that will protect the public and preserve the integrity of the legislative process, and at the same time allow departments flexibility to enact effective rules year-round. Therefore, after careful consideration, your Committee has amended this measure by:

- (1) Deleting the repeal of sections 188-25, 188-28.5, 188-29, 188-29.1, 188-30, 188-30.2, 188-30.5, 188-40, 188-41, 188-46 and 188-58, Hawaii Revised Statutes (HRS);
- (2) Authorizing DLNR to adopt rules pursuant to chapter 91, to add, delete or revise the provisions of sections 188-25, 188-28.5, 188-29, 188-29.1, 188-30, 188-30.2, 188-30.5, 188-40, 188-41, 188-44, 188-45, 188-46, 188-57, and 188-58, HRS, which rules shall become effective immediately upon approval;
- (3) Requiring DLNR to submit an annual report to the Legislature describing the rules adopted during the interim and the necessity for adopting any such rules;
- (4) Providing that if a rule is adopted under the new authority, any additions, deletions, or revisions to the provisions of the affected section shall be temporary; and
- (5) Providing that if the next regular session of the Legislature does not enact amendments to Chapter 188, Hawaii Revised Statutes, corresponding to the changes that DLNR made by rule, the unenacted temporary rule shall be nullified no later than 90 days following the adjournment of that regular session of the Legislature.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2878, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2878, H.D. 1.

Signed by all members of the Committee except Representatives Menor, Pendleton and Whalen.

**SCRep. 742-98      Judiciary on H.B. No. 2867**

The purpose of this bill is to authorize hearings officers instead of the Director of the Department of Labor and Industrial Relations to render final decisions on hearings before the department.

The Department of Labor and Industrial Relations and the Hawaii Operating Engineers Industry Stabilization Fund testified in support of the bill.

Your Committee finds that allowing hearings officers to render final decisions will streamline the Department of Labor and Industrial Relations' administrative hearings process.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2867 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 743-98      Judiciary on H.B. No. 2332**

The purpose of this bill is to increase highway safety by requiring motorists to immediately remove from the highway objects which fall from their vehicles or to report the fallen debris to the County Police Department.

The Police Department of the City and County of Honolulu and a private citizen testified in support of the bill.

Your Committee finds that by holding the driver of a motor vehicle responsible for the removal or reporting of fallen material to County Police Departments, this bill increases the awareness of the motoring public as to the inherent dangers of leaving fallen objects on the road.

Your Committee has amended this bill by:

- (1) Deleting the list of specific items which are not considered waste material; and
- (2) Inserting language that indicates that waste material does not include material used by authorized persons in connection with any lawful purpose, such as dropping sand on the highway for the purpose of securing traction or sprinkling water or other substances for cleaning or maintenance.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2332, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2332, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.

**SCRep. 744-98      Judiciary on H.B. No. 2843**

The purpose of this bill is to delete the sunset provision on court imposed monetary fines in criminal drug cases.

The Department of Public Safety, the Department of Health, the Hawaii Advisory Commission on Drug Abuse and Controlled Substances, the Prosecuting Attorney for the City and County of Honolulu, and the Honolulu Police Department testified in support of this measure. The Office of the Public Defender commented on the bill.

Your Committee finds that the Drug Demand Reduction Assessments (DDRA) are intended to supplement drug treatment and other drug demand reduction programs. Your Committee believes that DDRA is an excellent remedial measure which helps correct the evils of drug abuse and addiction for which the convicted defendant is partly responsible. Although your Committee believes that this program is helping in the fight against drug abuse, the program is still untested and a deletion of the sunset date would be premature.

Your Committee has amended this bill to extend the sunset date to the year 2001.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2843, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2843, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 745-98      Judiciary on H.B. No. 2847**

The purpose of this bill is to increase penalties for persons who operate illegal dumps or who dump solid waste without permission.

The Department of Health, the Department of Public Works for the City and County of Honolulu, and several private citizens testified in support of the measure.

Your Committee finds that illegal dumping is a serious problem in Hawaii. Your Committee believes that the increased penalties in this bill will act as a deterrent to illegal dumping.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2847, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2847, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 746-98      Judiciary on H.B. No. 3257**

The purpose of this bill, as received by your Committee, is to clarify that criminal history records will be made by means of the Federal Bureau of Investigation's (FBI) criminal history record files.

The Attorney General testified in support of the bill. The Hawaii Civil Rights Commission commented on the measure.

Your Committee finds that this bill will allow the City and County of Honolulu to meet the specific language requirements established by the FBI for approval to receive national criminal history record information.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity and to reflect current statutory law.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3257, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3257, H.D. 2.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 747-98      Judiciary on H.B. No. 3494**

The purpose of this bill is to require the Hawaii Housing Authority (HHL) to adopt rules, consistent with federal guidelines, which allow for the exclusion and eviction from public housing projects certain tenants whose habits and practices have a detrimental effect on the residents of the project or on the project environment, including those who are illegal drug or alcohol abusers.

HHL testified in support of the bill. The Legal Aid Society of Hawaii opposed the measure.

Your Committee finds that this measure will significantly reduce the amount of criminal activity currently plaguing Hawaii's public housing. Your Committee believes that enactment of this measure will not only bring Hawaii in line with federal laws so as to preserve federal funds but will also provide Hawaii's less fortunate families with a safer environment in which to live.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3494, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3494, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga, Pendleton and Whalen.  
(Representative Thielen voted no.)

**SCRep. 748-98      Judiciary on H.B. No. 3581**

The purpose of this bill is to create penalties for operating a moped on a roadway without a valid driver's license.

The Office of the Public Defender commented on the measure.

Your Committee finds that section 291C-194, Hawaii Revised Statutes (HRS), requires a person operating a moped on a public roadway to have a valid driver's license. However, your Committee finds that under current law, no penalty exists for violation of this section.

Your Committee has amended this bill by:

- (1) Placing the penalties provision with penalties provided under section 291C-161(b) and (e), HRS; and

- (2) Making technical, nonsubstantive revisions for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3581, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3581, H.D. 1.

Signed by all members of the Committee except Representatives Hiraki, Menor, Pendleton, Thielen and Whalen.

**SCRep. 749-98 Finance on H.B. No. 2862**

The purpose of this bill is to ensure that adequate services are provided to developmentally disabled persons by:

- (1) Requiring that each person, the person's family, friends, and others important to the person, have an active role in developing the plan designed to support the person; and
- (2) Extending the date of the closure of Waimano Training School and Hospital (WTSH) and the transition of WTSH residents to community settings from June 30, 1998, to June 30, 1999.

The Department of Health (DOH), the Commission on Persons with Disabilities, and the Hawaii Government Employees Association testified in support of this measure. The State Planning Council commented on the measure. The United Public Workers testified in opposition to this measure.

With deep concern for the future well-being of the remaining residents of WTSH with severe developmental disabilities and recognizing the difficulties in placing them in community settings, your Committee has agreed, after considerable discussion, that the closing date for WTSH must be extended for one year.

The transition of the residents of WTSH into community settings is in their best interests. Your Committee would like to be kept informed about these efforts, and DOH assistance would be appreciated. DOH can assist the Legislature in fulfilling its oversight responsibilities by submitting a report to the Legislature by December 15, 1998, on the status of each resident and the specific plan by which the individual is to be appropriately and cost-effectively accommodated.

Notwithstanding the extension date, DOH should make every possible effort to effect the transition and closing of WTSH by June 30, 1998, or as soon thereafter as possible.

Your Committee agrees with the amendments recommended by the State Planning Council on Developmental Disabilities and has amended the bill by:

- (1) Retaining the term "individualized service plan" rather than adopting a new term, "person-centered plan", and requiring the individualized service plan to be developed by the individual who is developmentally disabled, with the input of family, friends, and other persons important to the individual;
- (2) Authorizing, rather than requiring, DOH to provide essential services to ensure the closure of WTSH and to ensure that individuals currently placed at WTSH are properly transitioned into the community, and also authorizing DOH to administer these services;
- (3) Making additional statutory amendments necessary to extend the deadline for closure of WTSH; and
- (4) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2862, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2862, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 750-98 Finance on H.B. No. 3033**

The purpose of this bill is to authorize the Governor to contract for the construction of correctional facilities.

The Department of Public Safety, the Urban Honolulu Community Crime Prevention Network, and the Department of the Prosecuting Attorney of the City and County of Honolulu testified in support of the measure. The United Public Workers testified in support of the intent of the measure.

Your Committee has amended this bill by:

- (1) Providing for the purchase or lease of the correctional facilities by the State; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3033, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3033, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.

**SCRep. 751-98 Finance on H.B. No. 3106**

The purpose of this bill is to enable insurance professionals to better serve their customers by establishing:

- (1) Continuing education requirements for insurance licensees as a condition of license renewal;
- (2) A Hawaii Insurance Education Board to make recommendations to the Insurance Commissioner regarding continuing education course providers, materials, and requirements; and
- (3) An Insurance Licensing Administration Revolving Fund.

The Department of Commerce and Consumer Affairs, the Hawaii Independent Insurance Agents Association, and the Hawaii State Association of Life Underwriters submitted testimony in support of this measure. State Farm Insurance Companies and one concerned individual submitted comments.

Your Committee has amended this measure by:

- (1) Removing adjuster fee increases because they are unaffected by the continuing education requirements established by this measure;
- (2) Amending the manner in which the members of the Hawaii Insurance Education Board are appointed to conform with other statutory requirements; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3106, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3106, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.

**SCRep. 752-98 Finance on H.B. No. 3200**

The purpose of this bill is to improve the responsiveness of the Public Employees Health Fund (Fund) by replacing the existing two-tier plan with a three-tier plan so that health fund contributions will be made on the basis of the following categories:

- (1) Employee-beneficiary;
- (2) Employee-beneficiary with a single dependent-beneficiary; and
- (3) Employee-beneficiary with dependent-beneficiaries.

The Department of Budget and Finance testified in support of this measure. The Department of Human Resources Development supported the intent of this bill. The Hawaii State Teachers Association and the Hawaii Public Employees Health Fund commented on this measure.

Your Committee has amended this bill by:

- (1) Specifying that the three-tier contribution rates must be negotiated between the public employer and the exclusive representative of the respective bargaining unit;
- (2) Replacing the clergy representative on the Fund Board of Trustees with a representative for employees excluded from collective bargaining; and
- (3) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3200, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3200, H.D. 1.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.

**SCRep. 753-98 Finance on H.B. No. 3437**

The purpose of this bill is to ensure the solvency of the Hawaii Hurricane Fund by:

- (1) Increasing the post-hurricane assessment on servicing facilities, using fixed graduated percentages to formulate the assessment; and
- (2) Eliminating the special mortgage recording fee.

The Department of Commerce and Consumer Affairs, the Hawaii Association of Realtors, and Title Guaranty of Hawaii supported this measure. State Farm Insurance Companies, the Hawaii Insurers Council, and AIG Hawaii Insurance Company testified in opposition. The Department of Land and Natural Resources commented on this measure.



Upon further consideration, your Committee has amended this measure by:

- (1) Leaving blank the fixed percentages to be used in calculating the total assessment for the purpose of further discussion;
- (2) Retaining the special mortgage recording fee; and
- (3) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3437, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3437, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.

**SCRep. 754-98 Finance on H.B. No. 3452**

The purpose of this bill is to reduce the overall cost of providing school lunches by requiring each school to perform internal audits at least annually to verify that those students who receive a free or reduced price lunch in fact qualify for those discounted lunches.

The Hawaii State Teachers Association testified in support of the intent of this bill. The Department of Education (DOE) opposed this measure.

Your Committee has amended this bill by:

- (1) Replacing its contents with language that authorizes the DOE to set the price of school lunches to ensure that the moneys received from the sale of lunches shall be up to 100 percent of the nonfederal cost of preparing those lunches, rounded to the nearest 25 cents;
- (2) Repealing the requirement that the price of school lunches be adjusted during the first year of each fiscal biennium; and
- (3) Requiring the Superintendent of Education to provide the Chairs of the Senate and House Education Committees with copies of the federal audit of the school lunch program.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3452, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3452, H.D. 2.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina and Fox.

**SCRep. 755-98 Finance on H.B. No. 3461**

The purpose of this bill is to facilitate the development of diversified agriculture in counties exhibiting high unemployment rates by establishing a Foliage and Nursery Revolving Loan Program providing financing to qualified applicants who are not able to receive financing from other sources.

Pacific PlantSource testified in support of this measure. Supporting the intent of the bill, the Chairperson of the Board of Agriculture submitted an alternate bill draft with a different approach.

Your Committee has adopted the approach of this bill draft, and has amended H.B. No. 3461, H.D. 1, by deleting the Stand Alone Loan Program and the general fund appropriation, and instead earmarking moneys from the Agricultural Loan Revolving Fund for the same purpose.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3461, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3461, H.D. 2.

Signed by all members of the Committee except Representative White.

**SCRep. 756-98 Finance on H.B. No. 2449**

The purpose of this bill is to continue community rehabilitation programs by, among other things:

- (1) Replacing the term "handicapped individual" with "person with disabilities" and the term "quality rehabilitation facility" with "qualified community rehabilitation program";
- (2) Requiring a qualified community rehabilitation program to hold a certificate from the U.S. Department of Labor and be certified by the Department of Labor and Industrial Relations;
- (3) Exempting from the civil service, compensation, and collective bargaining laws, contracts entered into by public agencies with private sector entities for the purchase of products and services assisting persons with disabilities; and

- (4) Exempting wage and labor law provisions for construction contracts awarded to qualified community rehabilitation programs.

The Hawaii Centers for Independent Living, Goodwill Industries of Honolulu, the Arc in Hawaii, Opportunities for the Retarded, Ka Lima O Maui, Kona Krafts, Network Enterprises, and Lanakila Rehabilitation Center testified in support of the measure.

Your Committee has amended this bill by:

- (1) Deleting the exemption from the wage and labor law provisions for construction contracts awarded to qualified community rehabilitation programs; and
- (2) Making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2449, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2449, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.

**SCRep. 757-98 Finance on H.B. No. 2646**

The purpose of this bill is to reduce the costs of workers' compensation by establishing a system for regulating coordinated care organizations that provides medical and rehabilitative benefits to injured workers.

The Insurance Division of the Department of Commerce and Consumer Affairs, the Hawaii Chapter of Associated Builders and Contractors, the Big Island Farm Bureau, the Kona County Farm Bureau, Hawaii Island Landscape Association, Maui Economic Opportunity, the Healthcare Association of Hawaii, the Hawaii Center for Business Health, Kaiser Foundation Health Plan, the National Federation of Independent Business, Haku Alliance, Hawaii Chapter on American Physical Therapy Association, the Hawaii State Teachers Association, United Public Workers, and an individual testified in support of this measure. The Department of Labor and Industrial Relations and development of coordinated care organizations. The Hawaii Medical Service Association and three physicians supported the intent of the bill. The Hawaii Medical Association, three physicians, and several individual submitted comments on the bill. The Hawaii Nurses' Association and the Hawaii State Chiropractic Association testified in opposition to this measure.

Your Committee has amended the bill by:

- (1) Deleting the requirement for coordinated care organizations to operate through a workers' compensation insurer;
- (2) Establishing the threshold of fourteen days for receiving medical treatment and workers' compensation benefits after which a coordinated care organization is required to assign a case manager to an injured employee;
- (3) Deleting various medical protocol provisions which should not be included in the Hawaii Revised Statutes; and
- (4) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2646, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2646, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.

**SCRep. 758-98 Finance on H.B. No. 2547**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for the planning and construction of a slaughterhouse/processing treatment facility on Oahu.

The Department of Agriculture, the Hawaii Farm Bureau, Palama Meat Company, the Hawaii Fresh Milk Industry, the Hawaii Cattlemen's Council, and the Farmers' Livestock Coop testified in support of the bill. Animal Rights Hawaii and several individuals testified in opposition to the bill.

Your Committee has amended this bill by:

- (1) Clarifying that the bond issuance authorization includes the waste treatment plant as an integral part of the slaughterhouse/processing facility; and
- (2) Making technical, nonsubstantive amendments for style and clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2547, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2547, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.

**SCRep. 759-98 Consumer Protection and Commerce on H.B. No. 2470**

The purpose of this measure, as received by your Committee, is to authorize small companies to raise capital through the Small Corporate Registration (SCOR) program, a uniform registration system that allows small companies to obtain equity financing by selling common stock directly to the public.

Supportive testimony was submitted by the Department of Business, Economic Development, and Tourism (DBEDT) and a concerned individual. The Department of Commerce and Consumer Affairs (DCCA) also submitted comments.

Your Committee finds that the SCOR program will provide the means for many small businesses in Hawaii to secure the venture capital necessary to finance their business, thereby encouraging business expansion and stimulating economic growth. Your Committee agrees with the DBEDT that the administration of the SCOR program should be within the DCCA.

Upon careful consideration, your Committee has amended this bill by:

- (1) Clarifying that the DCCA is to administer the SCOR program by:
  - (a) Deleting the provision that exempted the SCOR program from DCCA's jurisdiction; and
  - (b) Deleting the provision that the SCOR program be included under the Hawaii Capital Loan program.

Your Committee shares the concerns of the DCCA regarding clarification on how the SCOR program is to be administered and believes that discussion on the merits of this measure should continue.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2470, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2470, H.D. 2.

Signed by all members of the Committee except Representatives Case, Tom and Pendleton.

**SCRep. 760-98 Consumer Protection and Commerce on H.B. No. 2670**

The purpose of this bill, as received by your Committee, is to amend section 465-3, Hawaii Revised Statutes (HRS), to permit licensed professionals, other than psychologists, to practice psychotherapy, provided that it is within the scope of their practice and they do not represent that they are psychologists or licensed to practice psychology.

Supportive testimony was submitted by the Hawaii Nurses Association, Hawaii Nurses Association's Council on Advanced Nursing Practice, BodyMind and Breath Center, National Association of Social Workers-Hawaii Chapter, and the Board of Psychology, Department of Commerce and Consumer Affairs. The Hawaii Psychological Association (HPA) submitted testimony opposing the measure.

Your Committee finds that this measure, as received, allows licensed professionals to continue to render services within the scope of their professions.

However, your Committee agrees with the HPA that the current language of section 465-3 (a) (5), HRS, is too broad and believes that clarification needs to be made regarding the type of services that licensed professionals may provide and the qualifications required of those professionals. Your Committee also agrees that qualified and licensed mental health professionals should include the practice of psychotherapy in the practice acts of their own professions.

Therefore, after careful consideration of the testimony submitted, your Committee has amended this measure by:

- (1) Clarifying that professionals, other than psychologists, providing mental health services be qualified in the area of mental health through experience and training; and
- (2) Adding a sunset provision to allow other professions the time necessary to enact legislation to include the practice of psychotherapy within their respective practice acts.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2670, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2670, H.D. 2.

Signed by all members of the Committee except Representatives Case, Tom and Pendleton.

**SCRep. 761-98 Consumer Protection and Commerce on H.B. No. 2852**

The purpose of the bill is to facilitate and expand the use of health services provided through telecommunications services by:

- (1) Creating a definition for the word "telehealth,";
- (2) Amending the statutory provisions relating to insurers, mutual benefit societies, and health maintenance organizations in order to establish the provision of telehealth services as a reimbursable service; and
- (3) Providing that a person practicing medicine by means of telehealth is engaging in the practice of medicine in the State.

Testimony on the bill was received from the following: Department of Health (DOH), Board of Medical Examiners, Hawaii Medical Service Association, AT&T, Hawaii Medical Association, Hawaii Academy of Physician Assistants, Healthcare Association of Hawaii, Hawaii Nurses Association, Kaiser Permanente, Oceanic Communications, GTE Hawaiian Tel, and several individuals.

Hawaii's unique geographic situation makes telehealth a valuable tool in providing health care for its residents. The use of telecommunications to deliver health services has the potential to reduce costs, and improve the quality of and access to services, especially in rural and other medically underserved areas.

Your Committee has amended the bill's definition of "telehealth" to address concerns raised by DOH, Oceanic, and GTE Hawaiian Tel in their testimony, and made other amendments.

More specifically, the bill has been amended by:

- (1) Amending the definition of telehealth to include a reference to section 269-1, Hawaii Revised Statutes, and by deleting the sentence, "'Telehealth' shall not include services by telephone or facsimile machine;"
- (2) Establishing that for health maintenance organizations, the provider shall be included with the enrollee or subscriber, and the insurer, in determining the terms of the health plan under which telehealth coverage is provided; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2852, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2852, H.D. 2.

Signed by all members of the Committee except Representatives Case, Tom and Pendleton.

**SCRep. 762-98 Consumer Protection and Commerce on H.B. No. 3183**

The purpose of this measure, as received by your Committee, is to amend section 271-16, Hawaii Revised Statutes (HRS), by reducing the maximum period of temporary authority granted to a motor carrier by the Public Utilities Commission from 120 days to 90 days, and by requiring that a hearing for permanent authority be held no later than the last day of the expiration of the temporary authority.

Testimony was submitted by the E Noa Corporation and the Public Utilities Commission.

The Public Utilities Commission (Commission) expressed its concern that the 90-day limitation on temporary authority is an insufficient amount of time for such temporary authority as the Commission generally takes between 90 and 120 days from the issuance of temporary authority to process and grant an application for permanent authority.

After careful consideration of the testimony submitted, your Committee has amended the measure, as received, by restoring the maximum period of temporary authority granted to a motor carrier by the Commission to 120 days.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3183, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3183, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Tom, Yoshinaga and Whalen.

**SCRep. 763-98 Consumer Protection and Commerce on H.B. No. 3331**

The purpose of this bill is to streamline the historic preservation review process and ensure a standard of quality is applied to the studies conducted for the purpose of evaluating historical sites by:

- (1) Establishing minimum qualifications for professionals who undertake projects that must be reviewed by the State Historic Preservation Division; and
- (2) Establishing penalties for any work conducted as part of the historic preservation review process by a professional who does not meet these minimum qualification standards.

The Board of Land and Natural Resources supported the intent of this bill. A member of the public commented on this measure.

It is your Committee's understanding that a serious problem frequently encountered in the evaluation of Hawaiian cultural sites is a lack of knowledge of the culture and geography of Hawaii. The quality of the historical reviews is inconsistent because the ability and knowledge of the professionals are inconsistent and, unfortunately, this is often realized only after the completion of the studies. Minimum qualification standards should mitigate this problem by establishing a base level of expertise.

Your Committee finds that this measure is needed to ensure that preservation of Hawaiian historical sites is conducted with quality to maximize the public's interest and minimize the costs incurred.

Upon careful consideration, your Committee has amended this bill by:

- (1) Adding minimum qualification standards for ethnographic evaluations;
- (2) Requiring the standards of quality apply more generally to primary professionals by replacing the scientific term of "principal investigator", which is associated with only the field of archaeology, with the more general term "primary professional";
- (3) Including field experience along with research experience as a qualifiable standard; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3331, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3331, H.D. 2.

Signed by all members of the Committee except Representatives Tom, Aiona and Pendleton.

**SCRep. 764-98 Consumer Protection and Commerce and Judiciary on H.B. No. 1099**

The purpose of this bill is to repeal Chapter 457G, Hawaii Revised Statutes (HRS), and create a new chapter that establishes a licensing program for occupational therapists administered by the Department of Commerce and Consumer Affairs (DCCA).

Testimony on the bill was received from the following: the State Auditor, DCCA, the Department of Health (DOH), the Occupational Therapy Association of Hawaii, the American Association of Retired Persons, the Hawaii Nurses Association, and numerous interested individuals.

This bill repeals Chapter 457G, HRS, a trademark protection law that prohibits a person from representing or advertising oneself as an occupational therapist or occupational therapist assistant unless the person has met the educational and experiential requirements for certification by the American Occupational Therapy Association and has passed a national certification examination.

In addition to repealing the State's existing Occupational Therapy Practice Act, the bill creates a new chapter that establishes a regulatory scheme for occupational therapists that requires licensure by the DCCA before a person can use the title "occupational therapist". The licensing program:

- (1) Establishes the program's administration within the office of the Director of DCCA (Director);
- (2) Provides for licensure exemptions;
- (3) Establishes licensing requirements including a college degree in an accredited occupational therapy program and passage of an exam administered by the National Board for Certification in Occupational Therapy, Inc.;
- (4) Provides for licensure by endorsement;
- (5) Establishes license renewal requirements and provides for fees to be established by administrative rule;
- (6) Authorizes the Director to deny, suspend, or revoke a license;
- (7) Establishes prohibited acts and penalties; and
- (8) Authorizes the use of occupational therapy support personnel acting under the supervision of a licensed occupational therapist.

These provisions will enable the DCCA to regulate the conduct of persons unqualified to provide occupational therapy services, thereby safeguarding the public's health, safety, and welfare.

The DOH testified that it has experienced difficulty in filling its occupational therapist positions and that the licensing requirements would preclude it from hiring recent graduates of occupational therapy programs. In consideration of the DOH's staffing shortage, the bill has been amended to exempt DOH occupational therapists employed in a civil service position from the licensing requirements for twelve months from the effective date of the licensing program. This will enable DOH occupational therapists to remain employed while fulfilling the licensing requirements, but does not allow for an indefinite period of unlicensed practice. Your Committees have further amended the bill by:

- (1) Establishing a requirement of 960 hours of clinical practice in occupational therapy services verified by a licensed health care professional;
- (2) Deleting the bill's appropriations clauses because start-up costs for the program will be borne by the profession and the program's operations funded by fees; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1099, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1099, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Garcia, Hiraki, Tom, Yoshinaga, Pendleton and Thielen.

**SCRep. 765-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2490**

The purpose of this bill is to clarify the Legislature's intent in enacting Act 80, Session Laws of Hawaii 1994, by:

- (1) Requiring that the Public Utilities Commission (PUC) decertify an existing telecommunications provider and replace it with an alternative telecommunications provider when the PUC has determined that an area serviced by the existing provider has less than adequate telecommunications service;
- (2) Providing that the decertified telecommunications provider is not precluded from reapplying to provide service in the area;
- (3) Authorizing the alternative telecommunications provider to acquire by eminent domain the former telecommunications provider's real and personal property upon payment of just compensation; and
- (4) Requiring that prior to a public utility's exercise of its power of eminent domain, the public utility submit a written request to the PUC, and the PUC find that the proposed condemnation is necessary and in the public interest, and that the property will be used by the public utility for its utility operations.

Testimony on the bill was received from the Department of Business and Economic Development, the PUC, the Department of Commerce and Consumer Affairs, GTE Hawaiian Tel, TelHawaii Inc., and Oceanic Communications.

Your Committees find that if the PUC determines that a particular area in the State lacks adequate telecommunications services, it should have the discretion to decertify the existing telecommunications provider and authorize the provision of services by an alternative telecommunications provider.

Therefore, your Committees have amended the bill by:

- (1) Permitting, but not requiring the PUC to decertify an existing telecommunications provider when it has determined that an alternative communications provider should be authorized to provide service in an area of the State with less than adequate telecommunications service;
- (2) Deleting the provisions relating to eminent domain; and
- (3) Making technical amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2490, H.D. 2, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2490, H.D. 3.

Signed by all members of the Committees except Representatives Hiraki, Tom, Aiona, Pendleton and Thielen.

**SCRep. 766-98 Consumer Protection and Commerce and Judiciary on H.B. No. 2701**

The purpose of this measure is to add a new section to Chapter 269, Hawaii Revised Statutes (HRS), to prohibit telecommunications carriers from making unauthorized changes in a subscriber's designation of a long distance carrier, commonly known as "slamming".

Supportive testimony was submitted by AT&T and Oceanic Communications. GSTA Telecom Hawaii, GTE Hawaiian Telephone Company Incorporated (Hawaiian Tel), and the Consumer Advocate, Department of Commerce and Consumer Affairs (DCCA), submitted comments.

Your Committees find that this bill will prohibit the practice of "slamming" in the telecommunications industry and allow the Public Utilities Commission to impose penalties upon carriers that repeatedly engage in "slamming" activities.

Your Committees agree with Hawaiian Tel that wireless carriers should be exempt from the provisions of this measure, as current federal law grants wireless carriers the authority to select long distance carriers on behalf of their customers.

Your Committees also agree with the Consumer Advocate that the terms "recklessly" and "repeatedly" pose problems for the efficient and effective enforcement of this measure.

Therefore, your Committees have amended the measure, as received by:

- (1) Exempting wireless carriers from the provisions of the measure;
- (2) Deleting the terms "recklessly" and "repeatedly" from the proposed provisions; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, style, and consistency.

By enacting this legislation, it is not your Committees' intention to undermine the authority of the Public Utilities Commission's rules, but rather to enhance them and to further prohibit "slamming" activities by telecommunications carriers, thereby providing protection for subscribers of long distance communication services.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2701, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2701, H.D. 2.

Signed by all members of the Committees except Representatives Hiraki, Tom, Aiona, Pendleton and Thielen.

**SCRep. 767-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3127**

The purpose of this bill, as received by your Committees, is to protect the value of the State's agricultural lands by making clear that any person who intends to construct a telecommunications tower within a State agricultural district is required to first obtain a special permit from the appropriate County Planning Commission.

Testimony in support of this bill was submitted by the Hawaii Chapter of the Sierra Club, Hawaii's Thousand Friends, and several individuals. The Department of Land Utilization, the Department of Business, Economic Development, and Tourism, AT&T, United States Cellular, Sprint, VoiceStream Wireless, GST Telecom Hawaii, GTE Hawaiian Tel, KITV-4 Hawaii, and Kauai Electric testified in opposition to the bill.

Your Committees find that the current law regulating the construction of telecommunications towers on agricultural lands is ambiguous and allows for inconsistencies with state land use laws. Clarification of the current law is necessary to avoid future misinterpretations and costly appeals. Your Committees also believe that the regulatory control over the construction of telecommunications towers should remain with the counties where the land in question is located.

Your Committees are mindful of the fact that there is pending litigation in the county of Hawaii arising from a decision by the County Planning Department (Department) to approve the construction of telecommunications towers by a cellular company, on agricultural district property located adjacent to residences. The Department approved construction without first requesting the company to obtain a special use permit under section 205-6, Hawaii Revised Statutes (HRS). Your Committees recognize that it is within the sound discretion of the courts to determine the legislative intent behind the enactment of chapter 205, HRS, and to apply these provisions to any particular case.

Upon careful consideration, your Committees find that this bill is necessary to both to ensure uniform compliance with State land use law, and due process for agricultural district residents and property owners.

Your Committees has amended this bill by:

- (1) Amending the list of permissible agricultural district uses under section 205-4.5, HRS, to make clear that the uses permitted under section 205-4.5(a)(7), HRS, do not include telecommunications towers;
- (2) Amending the definition of "telecommunications towers" to include any structure that is designed and constructed primarily for the purpose of supporting an antenna;
- (3) Making clear that antennas attached to an existing, permitted use, police, fire, ambulance, and emergency communications, and temporary telecommunications towers erected for one month or less are not prohibited under section 205-4.5(a)(7), HRS;
- (4) Exempting telecommunications towers constructed prior to the effective date of this Act from the prohibition under section 205-4.5(a)(7), HRS; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3127, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 3127, H.D. 2.

Signed by all members of the Committees except Representatives Hiraki, Tom, Aiona, Pendleton and Thielen.

**SCRep. 768-98 Consumer Protection and Commerce and Judiciary on H.B. No. 3302**

The purpose of this bill is to ensure that only bona fide unaccredited postsecondary institutions in Hawaii grant academic degrees by:

- (1) Establishing an advisory board to assist the Director of Commerce and Consumer Affairs with regulation of post-secondary schools;
- (2) Strengthening disclosure requirements, clarifying prohibited acts, and establishing physical presence requirements for unaccredited institutions; and
- (3) Replacing the current registration requirement with a service of process requirement.

The Department of Commerce and Consumer Affairs, the Chamber of Commerce of Hawaii, the Hawaii State Teachers Association, the University of Phoenix, and International University of Professional Studies submitted testimony in support of the bill. The University of Hawaii, the State Post-Secondary Education Commission, Greenwich University, and the Hawaii Career and College Fair submitted testimony in support of the intent of the measure. The University of Nations submitted comments on the bill. Pacific Western University and Kennedy Western University testified in opposition to the bill.

Your Committees find that Hawaii's laws have resulted in unaccredited "diploma mills" relocating to Hawaii from states that have passed laws prohibiting their operation. These businesses collect fees and issue diplomas with very little, if any, educational services provided, or academic performance required.

But, Hawaii is also home to legitimate unaccredited postsecondary institutions that serve students in Hawaii and other countries.

This bill is designed to prevent "diploma mills" from operating in Hawaii, while at the same time allowing legitimate unaccredited institutions to function.'

Your Committees are mindful of the concerns raised by those institutions engaging in, or who would like to engage in distance learning programs, and encourage the development of language proposing criteria for distinguishing legitimate distance learning institutes from "mail-drop diploma mills" disguised to appear legitimate.

Technical, nonsubstantive amendments have been made to the bill for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3302, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 3302, H.D. 2.

Signed by all members of the Committees except Representatives Cachola, Garcia, Hiraki, Saiki, Tom, Yoshinaga, Pendleton and Thielen.

**SCRep. 769-98 Finance on H.B. No. 2680**

The purpose of this bill is to improve the functioning of student-centered schools by, among other things:

- (1) Making parents of students attending the student-centered school the majority of the members of the local school board;
- (2) Exempting the local school board from collective bargaining in selecting the school principal;
- (3) Making the principal accountable to the local school board;
- (4) Requiring the Legislature to appropriate funds to student-centered schools through a separate line-item or proviso in the budget bill;
- (5) Making the local school board accountable to the Board of Education (BOE); and
- (6) Requiring the Department of Education (DOE) to indemnify and hold harmless the local school boards and their members.

The DOE testified in support of the intent of this measure. The Department of Budget and Finance testified in opposition to this measure. The Hawaii Government Employees Association commented on this measure.

Your Committee has amended the bill by:

- (1) Deleting the requirement for the Legislature to appropriate funds to student-centered schools through a separate line-item or proviso in the budget bill;
- (2) Deleting the requirement for the DOE to indemnify and hold harmless the local school boards and their members; and
- (3) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2680, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2680, H.D. 2.

Signed by all members of the Committee except Representative Ahu Isa.

**SCRep. 770-98 Finance on H.B. No. 3443**

The purpose of this bill is to authorize the Department of Agriculture (DOA) and the Department of Business, Economic Development, and Tourism (DBEDT) to contract with financial institutions for services, including giving, approving, and administering loans for business ventures.

The Department of Agriculture submitted comments.

Your Committee has amended this bill by:

- (1) Authorizing only DBEDT to contract with financial institutions for loan administration; and
- (2) Making technical, nonsubstantive amendments.



As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3443, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3443, H.D. 1.

Signed by all members of the Committee.

**SCRep. 771-98 Finance on H.B. No. 2971**

The purpose of this bill is to establish a special fund to finance the operational costs of the Board of Certification (Board) established by the Hawaii Law for Mandatory Certification of Private Cesspool Pumping Firms and Operating Personnel in Wastewater Treatment Plants (Chapter 340B, Hawaii Revised Statutes).

The Board, the Hawaii Water Environment Association, and the Wastewater Treatment Leeward Region testified in support of this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2971, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative White.

**SCRep. 772-98 Finance on H.B. No. 3367**

The purpose of this bill is to promote Hawaii's health industry and encourage the development of health-related tourism in the Asia-Pacific region and around the world by:

- (1) Establishing a permanent international exchange program (Program) within the University of Hawaii John A. Burns School of Medicine and the University of Hawaii School of Nursing;
- (2) Establishing the International Exchange Health Care Tourism Revolving Fund (Revolving Fund) to promote the Program; and
- (3) Appropriating funds to be deposited into the Revolving Fund to be used for the Program.

The Hawaii Nurses' Association supported this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3367, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 773-98 Finance on H.B. No. 2702**

The purpose of this bill is to establish:

- (1) A private organization to be known as the Universal Service Association (Association) to establish and maintain the Universal Service Fund (Fund) as a private fund, not associated with any state fund nor subject to legislative appropriation; and
- (2) A five-member board to exercise the powers of the Association.

GTE Hawaiian Telephone Company Incorporated testified in support of the intent of this measure. The Public Utilities Commission (PUC), the Consumer Advocate, AT&T, and Oceanic Communications commented on this measure.

Your Committee has amended this bill by:

- (1) Establishing the Fund as a special fund outside the state treasury to implement the policies and goals of universal service;
- (2) Appropriating moneys out of the Fund to carry out the purposes of the Universal Service Program; and
- (3) Providing that any unexpended or unencumbered balance of the appropriation will lapse into the Fund.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2702, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2702, H.D. 2.

Signed by all members of the Committee except Representative Ward.

**SCRep. 774-98 Finance on H.B. No. 3021**

The purpose of this bill is to provide emergency funding to prevent the reduction or discontinuance of services provided by community hospitals.

Your Committee has received a message from the Governor, dated February 10, 1998:

- (1) Stating that additional funding must be accommodated by March 1, 1998, for the Hawaii Health Systems Corporation; and
- (2) Requesting the Legislature for immediate passage of this bill to ensure continued hospital services.

The Hawaii Health Systems Corporation, the Healthcare Association of Hawaii, the Hawaii Government Employees Association, and the Coalition for the Preservation of Rural Health Care testified in support of this measure.

Your Committee has amended this bill by:

- (1) Specifying that of the \$5,000,000 emergency appropriation, the sum of \$150,000 shall be appropriated to the Hana Medical Center to be matched by the Office of Hawaiian Affairs; and
- (2) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3021, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3021, H.D. 1.

Signed by all members of the Committee except Representatives Ahu Isa and Goodenow.

**SCRep. 775-98 Finance on H.B. No. 3361**

The purpose of this bill is to protect children from harm by:

- (1) Creating a review panel within the Department of Human Services (DHS) to review all cases of serious child abuse requiring hospitalization or reabuse prior to reunification with the family;
- (2) Modifying the state tort claims act to preserve the claims of foster children until they reach the age of majority; and
- (3) Providing that all mandated reports of abuse that are investigated and unconfirmed be retained for a minimum of two years.

DHS and the National Association of Social Workers submitted testimony in support of this measure.

Your Committee has amended this measure by deleting its substance and inserting provisions that would:

- (1) Assure child safety as the priority for the Child Protective Services (CPS) system;
- (2) Require CPS to make every attempt to be open, accessible, and communicative to affective persons;
- (3) Require reports to be submitted by DHS to the court;
- (4) Allow physicians to share medical information with other physicians without parental consent if a child is active within the CPS system;
- (5) Allow foster parents to seek medical care for their wards upon the first day of placement;
- (6) Require DHS to assume temporary foster custody of a child and file a petition with the court within three days of assumption of temporary foster custody; and
- (7) Make technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3361, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3361, H.D. 3.

Signed by all members of the Committee except Representatives White.

**SCRep. 776-98 Finance on H.B. No. 2518**

The purpose of this bill is to ensure stability in the services offered by the Hilo Community School for Adults (HCCA) by converting the principal and the school administrative services assistant to permanent positions and "grandfathering" the incumbents.

The HCCA principal testified in support of this bill. The Department of Education supported the intent of this measure. The Department of Budget and Finance testified in opposition to this bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2518 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Ahu Isa and Ward.  
(Representative Meyer voted no.)

**SCRep. 777-98 Finance on H.B. No. 1533**

The purpose of this bill, as received by your Committee, is to privatize the Universal Service Fund.

For purposes of the public hearing, the Committee circulated a proposed H.D. 2 version that gutted the substance of H.B. No. 1533, H.D. 1, and inserted provisions authorizing the transfer of excess moneys from the Dwelling Unit Revolving Fund and the Homes Revolving Fund to the state general fund in fiscal year 1998-1999.

The Department of Budget and Finance submitted testimony in support of the proposed draft. The Villages of Kapolei Association submitted testimony in opposition of the proposed draft.

Your Committee has amended this bill by:

- (1) Incorporating the provisions of the proposed H.D. 2 version;
- (2) Including the transfer of funds from the Hawaii Agriculture Loan Revolving Fund, Hawaii Capital Loan Revolving Fund, and Special Land and Development Fund to the state general fund in fiscal year 1998-1999; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1533, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1533, H.D. 2.

Signed by all members of the Committee except Representative Ahu Isa.

**SCRep. 778-98 Finance on H.B. No. 2422**

The purpose of this bill is to qualify the Department of Health (DOH) for a \$200,000 federal traumatic brain injury demonstration matching grant or other sources of funding on a 1:2 state to federal, private, or other funding source matching basis.

DOH, Pacific Brain Injury Association, the Protection and Advocacy Agency of Hawaii, the Hawaii Nurses' Association, the Traumatic Brain Injury Advisory Board, the Spiritual Nation of Ku Hooneenuu Pono, and an individual testified in support of the measure.

Your Committee has amended this bill to facilitate further discussion by changing the:

- (1) Appropriation amount to \$1; and
- (2) Grant and matching amounts to \$1.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2422, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2422, H.D. 2.

Signed by all members of the Committee except Representative Ahu Isa.

**SCRep. 779-98 Finance on H.B. No. 2441**

The purpose of this bill is to amend the State Elections Law by:

- (1) Restricting campaign contributions of \$50,000 to a two-year election period instead of to any election year;
- (2) Providing that any expenditure made to a Governor or lieutenant Governor candidate, supporting a co-candidate in the general election shall not be considered a campaign contribution;
- (3) Changing the due date for a candidate's first deficit report to the 30th instead of 31st day of the election year;
- (4) Not requiring return of residual private contributions by any elected official who does not seek reelection, yet files to become a candidate for election within four years after the end of the term from which they did not seek reelection;
- (5) Removing the requirement that to receive public funds, a State Senator, State Representative, County Council member, or Prosecuting Attorney received at least ten percent of the votes cast in the respective election for the office that the candidate is seeking; and
- (6) Restricting to fifty percent of the maximum, the total amount of public funds available for primary, special primary, or general election.

The Hawaii Campaign Spending Commission submitted testimony in support of this bill.

Your Committee has made a technical, nonsubstantive amendment to this bill to clarify that each candidate who qualified for the maximum amount of public funding in any primary or special primary election and who is a candidate

for a subsequent general election shall upon application with the Campaign Spending Commission be entitled to receive up to fifty per cent of the balance of public funds available to such candidate.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2441, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2441, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Hamakawa, Kahikina, Fox and Ward.

**SCRep. 780-98 Finance on H.B. No. 2647**

The purpose of this bill is to enhance the Hawaii Employers' Mutual Insurance Company's (HEMIC) efforts to provide workers' compensation coverage to employers of the State at the highest level of service with the lowest possible cost.

This bill facilitates HEMIC's surplus accumulation by clarifying that HEMIC is excluded from assessments on the first \$25,000,000 of written premiums by the Hawaii Hurricane Relief Fund (HHRF) for each calendar year from 1997 through 2007.

This bill also:

- (1) Establishes the HEMIC Oversight Council to ensure that HEMIC fulfills its objectives; and
- (2) Requires HEMIC to participate in the Property and Liability Insurance Guaranty Association beginning in 2008.

HEMIC testified in support of this measure. HHRF commented on this bill.

Your Committee has made technical, nonsubstantive amendments to this measure.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2647, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2647, H.D. 2.

Signed by all members of the Committee except Representative Ahu Isa.

**SCRep. 781-98 Finance on H.B. No. 2824**

The purpose of this bill is to enable the Insurance Commission to perform its duties more efficiently by:

- (1) Replacing the Insurance Division's monthly filing and premium tax payment schedule with a quarterly filing and payment schedule;
- (2) Imposing a fine for the late filing of the annual or quarterly tax statement and revising the fine structure for authorized insurers delinquent in premium tax payments;
- (3) Requiring unauthorized insurers and surplus lines brokers to pay taxes on premiums collected from Hawaii residents for life and accident and sickness insurance; and
- (4) Changing the penalties for unauthorized insurers and surplus lines brokers for failure to file statement or remit tax.

The Department of Commerce and Consumer Affairs commented on this measure.

Your Committee has amended this bill by:

- (1) Deleting the provisions requiring unauthorized insurers and surplus lines brokers to pay taxes on premiums collected from Hawaii residents for life and accident and sickness insurance;
- (2) Deleting the section changing the penalties for unauthorized insurers and surplus lines brokers for failure to file statement or remit tax; and
- (3) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2824, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2824, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Goodenow.

**SCRep. 782-98 Finance on H.B. No. 2990**

The purpose of this bill is to allow the State to acquire, improve, and operate the Waiahole Water System (Water System) by:

- (1) Authorizing the issuance of reimbursable general obligation bonds and appropriating funds for this purpose;

- (2) Authorizing the Board of Agriculture (BOA) to acquire the Water System and to continue the operation of the Water System through an acquired corporation; and
- (3) Establishing the Waiahole Water System Revolving Fund to be used by the BOA to acquire, administer, operate, maintain, and improve the Water System.

Your Committee has received a message from the Governor, dated February 5, 1998:

- (1) Stating that negotiations leading to the purchase of the Waiahole Irrigation System requires that the transaction be consummated by July 1, 1998, for the State to acquire Waiahole Ditch at a reduced price; and
- (2) Requesting the Legislature for immediate passage of this bill to make an emergency supplementary appropriation for the purchase of the Waiahole Irrigation System.

The Department of Agriculture, the Department of Land and Natural Resources, the Board of Water Supply of the City and County of Honolulu, the Agribusiness Development Corporation (ADC), the ADC Board, the Hawaii Farm Bureau Federation, the Land Use Research Foundation, the Estate of James Campbell, the Mark A. Robinson Trusts, the Hawaii Agriculture Research Center, Del Monte Fresh Produce (Hawaii) Inc., the Big Island Farm Bureau, Garst, and three individuals testified in support of this measure. The University of Hawaii at Manoa Environmental Center commented on this measure. The Office of Hawaiian Affairs, Hawaii's Thousand Friends, Earthjustice Legal Defense Fund, and the Sierra Club, Hawaii Chapter testified in opposition to this measure.

It is the intent of this bill that all owners of land adjacent to water irrigation systems are encouraged to grant twenty-year term leases to farmers on their land.

Your Committee has amended this bill by:

- (1) Exempting the purchase of the stock of Waiahole Irrigation Company, Limited from the requirements of the Environmental Impact Statements Law; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2990, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2990, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Goodenow.  
(Representative Meyer voted no.)

**SCRep. 783-98 Finance on H.B. No. 1966**

The purpose of this bill is to provide choices for the elderly and disabled as to the type of care they wish to receive by:

- (1) Giving nurses authority to assign nursing care tasks to Adult Residential Care Home (ARCH) operators;
- (2) Giving consumers a choice to reside in a nursing home or in home- or community-based care; and
- (3) Repealing the provision that Act 431, Session Laws of Hawaii 1997, be repealed upon the termination of federal matching assistance or the provision of long-term care services under the State's Medicaid waiver for the QUEST project, whichever is sooner.

The United Home Care Givers of Hawaii and two individuals submitted testimony in support of this measure. The Hawaii Nurses' Association submitted testimony in opposition to this measure. The Healthcare Association of Hawaii submitted comments.

Your Committee has amended this measure by:

- (1) Deleting the provision to repeal Act 431, Session Laws of Hawaii 1997, on June 30, 1999 under certain conditions;
- (2) Protecting registered nurses who delegate tasks of nursing care to unlicensed persons from civil liability under certain conditions;
- (3) Broadening the definition of ARCHs; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1966, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1966, H.D. 2.

Signed by all members of the Committee.

**SCRep. 784-98 Finance on H.B. No. 2435**

The purpose of this bill is to reinstate the Hale Kokua program as a permanent program under the Housing and Community Development Corporation of Hawaii.

The Kalihi-Palama Community Council testified in support of this bill.

Your Committee has amended this bill by:

- (1) Deleting all references to the Employment and Training Fund; and
- (2) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2435, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2435, H.D. 1.

Signed by all members of the Committee.

**SCRep. 785-98 Finance on H.B. No. 2541**

The purpose of this bill is to create a nurturing, caring school environment by establishing the Comprehensive Student Support System (CSSS) that sets up a structure for integrating educational, health, and social services.

The Department of Education testified in support of this measure. The Hawaii State Teachers Association testified in opposition to this measure.

Your Committee has amended the bill by:

- (1) Authorizing, rather than mandating, the establishment of CSSS;
- (2) Deleting a decrease in property crimes, a decrease in fights, and a decrease in faculty and staff turnover as expected outcomes of CSSS; and
- (3) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2541, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2541, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Goodenow.

**SCRep. 786-98 Finance on H.B. No. 2565**

The purpose of this bill is to provide the Department of Education (DOE) with greater flexibility in transferring and assigning principals and vice-principals to better match individual skills with school needs by directing DOE to consult with the exclusive representative for unit 6 to establish a procedure that allows DOE such flexibility.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2565, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 787-98 Finance on H.B. No. 3142**

The purpose of this bill is to ease the shortage of elementary and secondary school teachers in the State by appropriating funds to train new teachers.

Specifically, this bill:

- (1) Expands the Basic Teacher Education Certification Program at the University of Hawaii at Hilo; and
- (2) Provides for teacher education at the University of Hawaii at West Oahu.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive revisions for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3142, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3142, H.D. 2.

Signed by all members of the Committee except Representative White.

**SCRep. 788-98 Finance on H.B. No. 3363**

The purpose of this bill is to restore funds for coordinated education and prenatal support services for at-risk pregnant women and their babies.

The Kokua Kalihi Valley Comprehensive Family Service, Maui Family Support Services, Molokai General Hospital, the Waianae Coast Comprehensive Health Center, the Hawaii Counseling Association, Healthy Mothers Healthy Babies, and the Hawaii Nurses' Association testified in support of this measure.

Your Committee has amended this bill by:

- (1) Changing the appropriation to \$1 for discussion purposes; and
- (2) Making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3363, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3363, H.D. 2.

Signed by all members of the Committee except Representative White.

**SCRep. 789-98 Finance on H.B. No. 144**

The purpose of this bill is to eliminate overtime compensation from the calculation of retirement benefits for employees who become members of the state Employees' Retirement System (ERS) after June 30, 1997.

The Department of Budget and Finance supported the intent of this bill. The Hawaii Government Employees Association testified in opposition. The Employees' Retirement System of the State of Hawaii commented on the bill.

Your Committee has amended this bill by:

- (1) Having the bill affect employees who become members of the ERS after June 30, 1998; and
- (2) Making technical, nonsubstantive revisions for purposes of clarity, style, and conformity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 144, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 144, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa.

**SCRep. 790-98 Finance on H.B. No. 3037**

The purpose of this bill is to establish a two-year moratorium on the formation of new Business Development Corporations (BDC).

The Department of Taxation, Wallace Theaters, and the Tax Foundation of Hawaii submitted comments.

Your Committee has amended this measure by deleting its substance and inserting provisions to:

- (1) Prohibit the organization of new BDC after the bill's effective date;
- (2) Establish a schedule for allowable tax exemptions or credits for BDC for taxable years beginning January 1, 1998, until January 1, 2005; and
- (3) Repeal allowable tax exemptions and credits for BDC on January 1, 2005.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3037, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3037, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Goodenow.  
(Representative Fox voted no.)

**SCRep. 791-98 Finance on H.B. No. 2487**

The purpose of this bill is to require the Hawaii Hurricane Relief Fund (HHRF) to develop a model of hurricane risk zones in the State using its own funds.

The Maui Economic Development Board submitted testimony in support of this measure. A concerned individual submitted testimony in support of the intent of this measure. The HHRF, State Farm Insurance Companies, Hawaii Insurers Council, and the HHRF Advisory Committee submitted testimony in opposition of this measure. Hurricane Protection Systems submitted comments.

Your Committee has amended this measure by:

- (1) Requiring hurricane risk factor assessment for structures that are low-risk, medium-risk, and high-risk;

- (2) Requiring the hurricane risk zone model to be completed by June 30, 1999;
- (3) Requesting that an interim progress report be submitted to the Legislature; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2487, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2487, H.D. 2.

Signed by all members of the Committee except Representative Ahu Isa.

**SCRep. 792-98      Finance on H.B. No. 2572**

The purpose of this bill is to provide for the safety needs of schools by:

- (1) Requiring that all new public school buildings planned, designed, constructed, and equipped:
  - (A) After June 30, 1999, be built in accordance with the hurricane-resistant shelter criteria to be adopted by the Adjutant General; and
  - (B) Before July 1, 1999, be built in accordance with the hurricane-resistant shelter criteria established by the Department of Defense on July 29, 1997;

and
- (2) Appropriating funds for the additional planning, design, construction, and equipment costs related to buildings designed as hurricane-resistant shelters.

The Department of Education and the Department of Defense commented on the measure.

Your Committee has amended this bill by:

- (1) Changing the appropriation amount to \$1 for the purpose of continued discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2572, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2572, H.D. 2.

Signed by all members of the Committee except Representative Ahu Isa.

**SCRep. 793-98      Finance on H.B. No. 3110**

The purpose of this bill is to reduce the incidence of drug dependence among teens by appropriating funds to treat drug dependent teenagers within a family-like environment.

The Department of Health, the Alcoholic Rehabilitation Services of Hawaii, and the Hawaii Advisory Commission on Drug Abuse and Controlled Substances testified in support of this measure. The Office of Youth Services supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Inserting the appropriation amount of \$1 for discussion purposes; and
- (2) Making a technical, nonsubstantive change for clarity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3110, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3110, H.D. 1.

Signed by all members of the Committee except Representative White.

**SCRep. 794-98      Finance on H.B. No. 2560**

The purpose of this bill is to provide increased flexibility to the University of Hawaii (University) in its operations to enable it to more completely fulfill its multiple instructional, research, and community service mission in support of the well-being of our state.

The Hawaii Business Roundtable testified in support of the bill. The University submitted testimony in support of many provisions of the bill. The Department of Budget and Finance supported the intent of the bill. The State Attorney General testified in opposition to the bill.

The bill has been amended by:



- (1) Deleting the authority for the University to categorize equipment in the determination of cost elements related to the issuance of general obligation bonds; and instead requiring the Board of Regents and the Director of Finance to agree on a mechanism or procedure for financing the purchase of equipment for University buildings that provides flexibility for the University;
- (2) Requiring the Board of Regents, the Director of Finance, and the Attorney General to agree on a procedure that facilitates the University entering financing agreements under Chapter 37D, Hawaii Revised Statutes;
- (3) Deleting the authority for the Board of Regents to create position counts within programs;
- (4) Deleting the statement that the University may seek legislative appropriations for the payment of judgments and settlements, and the statement that the Legislature shall have discretion in appropriating funds for this purpose;
- (5) Changing the minimum amount of general fund budget appropriations for the University from four to three times the amount raised by tuitions and fees;
- (6) Clarifying that fund balances of the University of Hawaii at Manoa Continuing Education and Community Service Special Fund and the University of Hawaii at Hilo Continuing Education and Community Services Special Fund shall be transferred to the University of Hawaii Community Services Special Fund on June 30, 1998;
- (7) Clarifying that fund balances of the University of Hawaii at Manoa Summer Session Special Fund shall be transferred to the University of Hawaii Tuition and Fees Special Fund on June 30, 1998;
- (8) Deleting the transfer of an unspecified amount for legal services from ATG100 to UOH900, and replacing this provision with an appropriation of an unspecified amount for legal services for the University; and
- (9) Making technical, nonsubstantive revisions for purposes of style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2560, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2560, H.D. 2.

Signed by all members of the Committee except Representatives Ahu Isa and Chang.

**SCRep. 795-98 Finance on H.B. No. 3625**

The purpose of this bill is to reorganize the Department of Agriculture (DOA) by:

- (1) Repealing the Agribusiness Development Corporation (ADC) and placing specified powers, duties, and responsibilities of ADC under DOA;
- (2) Transferring the Aquaculture Program within the Department of Land and Natural Resources (DLNR) to DOA;
- (3) Requiring DOA to identify problems related to agriculture and the appropriate state agencies and departments needed to solve the problems, and with the Governor's approval, requiring the designated agencies to provide any necessary assistance to the Chairperson of the Board of Agriculture (BOA) until the problems are resolved;
- (4) Transferring the agricultural development function of the Department of Business, Economic Development, and Tourism (DBEDT), including the processing and marketing of agricultural food products, to DOA;
- (5) Transferring the measurement standards functions of DOA under Chapter 486, Hawaii Revised Statutes (HRS), to the Department of Commerce and Consumer Affairs (DCCA); and
- (6) Transferring the duties, functions, and related staff, equipment, and other property of:
  - (a) ADC to DOA;
  - (b) DLNR's Aquaculture Program to DOA;
  - (c) DOA's Division of Measurement Standards under Chapter 486, HRS, to DCCA.

The Hawaii Farm Bureau, the Hawaii Agriculture Research Center, the Oceanic Institute, Royal Hawaiian Sea Farms, Hawaiian Marine Enterprises, Pacific Harvest, Inc., and several individuals testified in support of this measure. DOA and the Hawaii Aquaculture Association testified in support of the intent of this measure. DLNR, DCCA, Oceanit Laboratories, Inc., Mokuleia AquaFarm, Molokai Sea Farms, and Lee Communications, Inc. commented on this measure. ADC and an individual testified in opposition to this measure.

Your Committee has amended this bill by:

- (1) Reinstating the ADC but changing the composition of the ADC Board of Directors to consist of members of the BOA;
- (2) Retaining the ADC staff in ADC;

- (3) Retaining the measurement standards functions and the duties, functions, and related staff, equipment, and other property of the Measurement Standards Division under DCCA;
- (4) Transferring the registry, disposition, auction, auction prequalification, drawing, notice requirements, appraisals, and related functions of agricultural lands presently administered by DLNR and its board to DOA;
- (5) Exempting lands held by the ADC from the definition of "public lands", thereby exempting the ADC from the requirement of Chapter 171, HRS;
- (6) Appropriating funds for the Aquaculture Program and for ADC; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3625, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3625, H.D. 3.

Signed by all members of the Committee except Representatives Ahu Isa and Goodenow.

**SCRep. 796-98 Finance on H.B. No. 2499**

The purpose of this bill is to attract foreign capital to the State for investment, revenue enhancement, and other purposes by authorizing the chartering of foreign capital depositories in the State.

The Hawaii Bankers Association testified in support of this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu supported the concept of this bill but with some concerns. The Department of Commerce and Consumer Affairs expressed concerns, and the Financial Crimes Enforcement Network commented on this measure. The Department of Taxation and the Honolulu Police Department opposed this bill.

Your Committee made technical, nonsubstantive amendments to the bill to conform to correct drafting style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2499, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2499, H.D. 2.

Signed by all members of the Committee except Representative Ward.  
(Representatives Ahu Isa, Kahikina and White voted no.)

**SCRep. 797-98 Finance on H.B. No. 3071**

The purpose of this bill is to require the Employees' Retirement System (ERS) to assume the obligations of the Hawaii Public Employees Health Fund for retiree health insurance benefits.

The Hawaii State Teachers Association testified in support of this measure. The HGEA/AFSCME Local 152 Retirees Unit and the United Public Workers testified in support of the intent of this measure. The Hawaii Public Employees Health Fund and the Coalition of Hawaii State/Counties Retirees commented on this measure. The Department of Budget and Finance and the ERS testified in opposition to this measure.

Your Committee has amended this bill by deleting its substance and inserting new material, which, beginning July 1, 1999, stops state and county contributions to the Hawaii Public Employees Health Fund to pay for benefits for dependent-beneficiaries, reciprocal beneficiaries, and qualified-beneficiaries, except for retirees who are retired as of July 1, 1999.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3071, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3071, H.D. 1.

Signed by all members of the Committee.  
(Representatives Hamakawa, Fox and Marumoto voted no.)

**SCRep. 798-98 Finance on H.B. No. 2564**

The purpose of this bill is to authorize the Department of Education (DOE) to develop and implement a plan to require competency in computer literacy and second language capabilities for Hawaii's students, as recommended by the Economic Revitalization Task Force.

The Department of Business, Economic Development, and Tourism, the Hawaii Business Roundtable, the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, and two individuals supported this bill. The DOE supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Clarifying that all pupils graduating from high school be competent in at least one language other than English;
- (2) Requiring the Board of Education to define "computer literacy" and "language competency" through rules;
- (3) Requiring the implementation plan to include a timetable of when the goals will be reached; and

- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2564, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2564, H.D. 1.

Signed by all members of the Committee.

**SCRep. 799-98      Finance on H.B. No. 2557**

The purpose of this bill is to expedite the regulatory approval process for State development-related permits, approvals, and licenses, by requiring all State agencies and departments to establish, by rule or statute, maximum time frames for the review and approval for permits, approvals, and licenses under their jurisdiction.

The Office of Planning, the Department of Health, the Hawaii Association of Realtors, and the Construction Industry Legislative Organization submitted testimony in support of this measure. The Department of Land and Natural Resources submitted testimony in support of the intent of this measure. Hawaii's Thousand Friends and the Sierra Club, Hawaii Chapter submitted testimony in opposition of this measure. Hawaiian Electric Company, Inc., and the Land Use Research Foundation submitted comments.

Your Committee has amended this measure by:

- (1) Requiring that issuing agencies establish maximum time frames for review and approval, by rule only;
- (2) Establishing a ninety-day limit in which the agency must establish the maximum time frame for review and approval;
- (3) Clarifying that a quorum, less those members who are disqualified, will be necessary to make any action of the board or commission valid; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2557, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2557, H.D. 2.

Signed by all members of the Committee except Representative Ward.

**SCRep. 800-98      Finance on H.B. No. 2566**

The purpose of this bill is to ensure the efficient use of scarce government resources by:

- (1) Establishing a committee to develop and implement plans to transform the State's budgeting, accounting, and procurement systems into an integrated system; and
- (2) Establishing a second committee to develop a process that would determine whether a particular service could be provided more efficiently and effectively by a public agency or a private enterprise.

The Department of Budget and Finance, the Department of Accounting and General Services, the Department of the Attorney General, the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, the United Public Workers, AFSCME, Local 646, AFL-CIO, and the American Institute of Architects - Hawaii State Council testified in support of this measure. The Department of Human Resources Development supported the intent of this measure. The Consulting Structural Hawaii, Inc., the Fewell Geotechnical Engineering, Ltd., the Consulting Engineers Council of Hawaii, Ka Lima O Maui, Goodwill Industries of Hawaii, Opportunities for the Retarded, Inc., and the Associated Builders and Contractors, Inc. testified in opposition of this measure.

Your Committee has amended this bill by:

- (1) Establishing, as interim policy, the types of programs or projects, and the procedure by which the programs or projects may be privatized by the state or county government which have been customarily allowed in the past;
- (2) Adding a new Section 6 that provides the justification behind this interim policy on privatization; and
- (3) Making technical, nonsubstantive revisions to conform to correct drafting style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2566, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2566, H.D. 2.

Signed by all members of the Committee except Representative Ward.

**SCRep. 801-98 Finance on H.B. No. 2567**

The purpose of this bill is to eliminate the duplication of government services by creating the Government Efficiency Task Force (GETF) to:

- (1) Analyze the issue of duplicative state and county services;
- (2) Determine areas of duplication and methods to consolidate; and
- (3) Draft implementation plans to eliminate duplication.

The Department of Business, Economic Development, and Tourism, the Department of Land and Natural Resources, the Department of Transportation, the American Institute of Architects Hawaii State Council, and the Consulting Engineers Council of Hawaii submitted testimony in support of this measure. The Mayor of the City and County of Honolulu submitted testimony in opposition of this measure. The Hawaii Government Employees Association submitted comments.

Your Committee has amended this measure by:

- (1) Establishing the GETF in the session laws rather than making provisionary changes to Chapter 201, Hawaii Revised Statutes, because of the temporary nature of the program;
- (2) Providing that the GETF submit an interim report to the Governor and the Legislature prior to the regular session of 1999, and a final report prior to the regular session of 2000;
- (3) Terminating GETF on January 31, 2000; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2567, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2567, H.D. 2.

Signed by all members of the Committee except Representative Ward.

**SCRep. 802-98 Finance on H.B. No. 3199**

The purpose of this bill is to permit state and county officials to contract with private entities to provide goods, services, and construction to be financed by public funds when they can be provided at lower costs and in equivalent or better quality than that which could be produced by a government entity.

The Department of Human Resources Development, the Department of the Attorney General, the Judiciary, the Department of the Corporation Counsel of the County of Maui, the Office of the County Attorney of the County of Kauai, the Hotel Employees Restaurant Employees, Local 5, the Construction Industry Legislative Organization, the National Federation of Independent Business, the Hawaii Hotel Association, Maui Hotel Association, the American Institute of Architects Hawaii State Council, the Consulting Engineers Council of Hawaii, the Haku Alliance, the Consulting Structural, Hawaii, Inc., the Fewell Geotechnical Engineering, Ltd., Goodwill Industries of Hawaii, Inc., Opportunities for the Retarded, Inc., Ka Lima O Maui, the Office of the Mayor of the County of Maui, Contractors Association of Kauai, the Department of Water of the County of Kauai, the Associated Builders and Contractors, Inc., Hawaiian Electric Company, Inc., the Department of Personnel of the City and County of Honolulu, the Building Industry Association of Hawaii, the Department of Education, the Hawaii Restaurant Association, a Hawaii County Council member, and Network Enterprises submitted testimony in support of this measure.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO and the United Public Workers, AFSCME, Local 646, AFL-CIO opposed this measure.

Your Committee has amended this bill by making two technical amendments to:

- (1) Clarify that the provisions of the new chapter on privatization apply to the counties; and
- (2) Make provisions of the new chapter apply to all contracts in effect on the effective date of the bill, as well as contracts entered on or after the effective date of the bill.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3199, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3199, H.D. 2.

Signed by all members of the Committee except Representative Ward.

**SCRep. 803-98 Finance on H.B. No. 2554**

The purpose of this bill is to implement one of the key recommendations of the Economic Revitalization Task Force (Task Force).

This bill seeks to facilitate the growth and ensure the continued vitality of Hawaii's visitor industry by strengthening efforts to better coordinate tourism marketing, development, and research.

### Background on the Task Force

Your Committee finds that Hawaii's economy has been mired in an economic slump for seven consecutive years. As a result of the State's lagging economy, there have been significant job losses, declining wages and salaries, business closures, and a flat tax base resulting from a drop in real income. Your Committee further finds that these factors have imposed considerable day-to-day hardships on the community at-large.

Recognizing that to do nothing would be tantamount to further economic hardship and failure, the House Speaker, the Senate President, and the Governor convened a group of top business, labor, and community leaders during the summer of 1997, to look at ways of improving Hawaii's ailing economy. Known as the Economic Revitalization Task Force (Task Force), the twenty-six members of this group worked long and hard to come up with an integrated economic reform package, which was presented to the Nineteenth Legislature prior to the beginning of the 1998 Regular Session.

The premise of the Task Force's recommendations rested on four objectives:

- (1) Reducing the cost of living and doing business in Hawaii;
- (2) Improving the regulatory climate and efficiency of government;
- (3) Strengthening the marketing and promotion of tourism, the State's key industry; and
- (4) Making structural changes to improve Hawaii's education system.

These objectives led the Task Force to make several recommendations to improve the ailing economy in the areas of taxes, regulations, education, tourism, government services, and Hawaiian issues.

Your Committee acknowledges with appreciation the contributions of the many people, including the members of the Task Force and its several work groups, who volunteered their time and expertise in working together to help move our economy forward.

Your Committee recognizes that the Task Force economic reform package is the only comprehensive package currently before the Legislature. The Task Force proposals are intended to facilitate further discussion, deliberation, and consensus-building efforts to do something positive and proactive for the state economy.

Notwithstanding that there are still a multitude of concerns to be addressed, indifference, inaction, and inertia are not viable options at this time. In recognition of the urgency of this situation, your Committee realizes that much needs to be done in the remaining days of this legislative session to revitalize Hawaii's ailing economy.

### Background on H.B. No. 2554

A major key to economic reform lies in our visitor industry which represents approximately one-fourth of the gross state product. With approximately 160,000 direct and indirect jobs, the visitor industry provides one-third of all civilian jobs. In terms of tax revenues, visitor-related industries pumped almost \$900 million into State and county coffers in 1995. Clearly, our economy is heavily dependent on a healthy visitor industry.

As received, this bill proposes to:

- (1) Establish a Hawaii Tourism Board (Board) with the authority to develop and implement a tourism marketing plan and to contract for tourism marketing, development, and promotion;
- (2) Establish a Tourism Special Fund (Fund) for use by the Board;
- (3) Increase the Transient Accommodations Tax (TAT) rate from six percent to seven percent beginning January 1, 1999, and deposit three-sevenths of all TAT revenues into the Fund; and
- (4) Transfer personnel from the Office of Tourism to the Board, and direct the Department of Business, Economic Development, and Tourism (DBEDT) to be responsible for tourism research.

DBEDT, the Department of Taxation, the University of Hawaii at Manoa, and Outrigger Enterprises, testified in support of this measure. The Department of the Attorney General, the Visitor Industry Coalition, the Hawaii Hotel Association, the Big Island Business Council, ILWU Local 142, and Catrala-Hawaii testified in support of the intent of this measure. The City and County of Honolulu Office of the Mayor, the Tax Foundation of Hawaii, and an individual commented on this bill. The Maui Hotel Association, The American Resort Development Association, Lawai Beach Resort, the Kahana Falls Interval Owners Association, Shell Vacations LLC, and two individuals testified in opposition to this measure.

### Committee Amendments

In deliberating over this bill, your Committee considered alternatives that would:

- (1) Ensure a growing revenue source for the Fund;
- (2) Earmark additional revenues to pay off the debt service of the Hawaii Convention Center (HCC);
- (3) Reduce the revenue loss to the counties over the short term; and

- (4) Provide a mechanism that clearly identifies the revenues generated by visitors and that allow these revenues to be reinvested in our economic future.

With this in mind, your Committee has amended this bill by:

- (1) Increasing the TAT from six percent to 11.5 percent beginning on January 1, 1999, while at the same time exempting the rental of hotel rooms from the General Excise Tax (GET);
- (2) Requiring that a sum equal to the total amount set aside for the counties in fiscal year (FY) 1998-1999 be distributed to the counties in all future years;
- (3) Requiring that of the remaining revenues, 40 percent shall be deposited into the Fund;
- (4) Depositing the following sums into the Convention Center Capital Special Fund to pay for debt service:
  - (a) \$20,000,000 - annually from FY 1998-1999 to FY 1999-2000; and
  - (b) \$40,000,000 - annually from FY 2000-2001 to FY 2002-2003;
- (5) Depositing any remaining balance into the State general fund;
- (6) Deleting the requirement that revenues from any transient occupancy tax be deposited into the Fund;
- (7) Reducing the proportion of the Fund that may be used for administrative purposes to two percent;
- (8) Increasing to 11.5 percent the amount of tax credits that can be claimed for transient accommodation costs incurred in the production of motion picture or television films;
- (9) Reducing the appropriation for DBEDT to conduct tourism research to \$500,000 and specifying that the moneys shall come from the Fund; and
- (10) Making technical, nonsubstantive revisions for purposes of clarity and style.

#### Discussion

The 11.5 percent TAT figure consists of the sum of:

- (1) The four and one-half percent GET (a one-half of one percent increase from the current four percent) as proposed in H.B. No. 2568, H.D. 1; and
- (2) The seven percent TAT rate (a one percent increase from the current rate).

When a visitor is charged the 11.5 percent TAT, the net effect will not be prohibitive because the visitor will be exempt from paying the GET on the rental of the hotel room. To reiterate, the net cost for the visitor will be a one and one-half percent increase (one percent increase in the TAT and a one-half of one percent increase in the GET).

For years, the visitor industry has called for increases in State funding for tourism promotion. The 1997 Legislature appropriated \$26,000,000 and \$24,000,000 for fiscal biennium 1997-1999 to the Hawaii Visitors and Convention Bureau (HVCB) for tourism marketing of Hawaii. Despite this level of funding, the industry has maintained that Hawaii still lags its competitors in funding for tourism promotion. Under the revised formula, your Committee estimates that approximately \$55,000,000 will be deposited into the Fund in FY 1998-1999, more than doubling the current amount.

In 2000, the current formula earmarking a portion of the TAT to pay for the HCC's debt service will be insufficient. An additional \$15,000,000 to 20,000,000 will be necessary. Rather than delay in addressing this problem, your Committee has earmarked a larger share of the TAT to meet this scheduled shortfall.

In capping the counties' future share of the TAT revenues to the same amount allocated during FY 1998-1999, your Committee is providing the counties with more than adequate time to find solutions to their future shortfalls.

At the same time, the visitor industry has also called for greater predictability in its funding. Instead of continuing to rely on the Legislature to appropriate general funds to the HVCB as part its annual budget deliberations, this bill establishes a new special fund reserved exclusively for tourism promotion. Perhaps just as importantly, this restructuring will also help to reduce efforts by those in the political arena to micro-manage industry promotion. Instead, the Board will be held accountable.

Taken together, these amendments will lead to a stronger visitor industry, resulting in an improved Hawaii economy.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2554, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2554, H.D. 2.

Signed by all members of the Committee.

The purpose of this bill is to provide supplemental appropriations for the Executive Branch by amending the General Appropriations Act of 1997 (Act 328, Session Laws of Hawaii 1997).

Your Committee finds that Hawaii's economy has been mired in an economic slump for seven consecutive years, while in comparison the economy of the rest of the nation has rebounded. As a result of the State's lagging economy, there have been significant job losses, declining wages and salaries, business closures, and a flat tax base resulting from a drop in real income. Your Committee further finds that these factors have imposed considerable day-to-day hardships on the community at-large.

The bursting of Japan's bubble economy continues to reverberate throughout all segments of Hawaii's economy, especially tourism. Although the visitor count increased in the first eleven months of 1997, the average length of a visitor's stay in Hawaii declined resulting in a decrease in the number of average daily visitors. This has a dramatic impact not only on hotel occupancy rates but also on retail sales. Moreover, Hawaii tourism market appears to have matured, largely due to intense competition from other developing visitor destination areas.

At the same time, the sugar and pineapple industries have been downsized because of Hawaii's relatively high cost structure. Sugar production, once the mainstay of Hawaii's economy, has fallen more than 25 percent in the last four years. The construction industry also continues to decline. The number of construction jobs was down from 23,600 in October 1996 to 21,900 a year later, dramatically lowering the general excise tax base for contracting.

As required by the State Constitution, the Council on Revenues (Council) estimates present projections based on various factors such as tourism statistics, construction growth, and inflation on a quarterly basis. In September 1997, the Council projected a general fund growth rate of 2.8 percent for both fiscal years (FY) 1997-1998 and 1998-1999. The December projection lowered both of these figures to 1.4 percent, continuing the bleak economic forecast of the previous years. However, when the Council testified in January before this Committee, it cushioned the initial impact of these figures by explaining that the underlying inflation figures may have been somewhat overstated. If true, Hawaii might be experiencing deflation, leading to lower prices and the ability of the state government to reduce its costs in such areas as service and construction contracts.

The economic future of Hawaii is not encouraging, as projections indicate a continuation of past trends. From the perspective of state government, the weakness of Hawaii's economy has been reflected in its declining tax revenues.

Hawaii's number one industry, tourism, continues to weaken based primarily on the loss in tourism revenue from Asia's own economic crisis and the rise in the dollar against the yen.

Despite past measures to stimulate growth and stem economic losses, the Council's projections have continued to plunge. And there is no indication that Hawaii's economic slump is going to turn around in the near future. Recent job losses in several local companies and the continued financial crisis in Asia indicate just the opposite: that state revenues will continue to stagnate.

It is obvious that the Legislature must act quickly. The economy will not fix itself. Our goals need to be clearly defined and dramatic steps must be taken to reach these goals.

Your Committee's overall goal continues to be a financial program to restructure taxes, putting more money in the hands of families and businesses, while continuing to provide the essential government services on which people rely.

However, your Committee is mindful that tax restructuring, in theory, can be successful in energizing the economy. However, in practice, if not done well, tax restructuring may be only a short-term solution resulting in much larger long-term problems. This can occur if tax restructuring result in the collapse of institutions, infrastructure, and practices that support economic development, such as public education, transportation infrastructure, and environmental protection.

### **BUDGET STRATEGIES TO MANAGE THE STATE FISCAL DEFICIT**

To deal with falling state revenues, your Committee explored and implemented a number of budget strategies to reduce the cost of government. Your Committee made some very tough decisions and made some drastic budget cuts and program changes. Reductions and changes of this magnitude require the full participation and assistance of all State departments and agencies. Your Committee deeply appreciates all the State departments and agencies for their participation and input. The departments and agencies identified their core functions and services and suggested areas where reductions could be made. Your Committee carefully scrutinized the programs at the bottom of the priority lists to determine which were legislative prerogatives and which were mandates.

In addition, your Committee looked at all programs, regardless of their means of financing. If the size of government is to be reduced, then all funds must be reduced.

In these austere times, your Committee, while recognizing the importance of preventive programs, had to focus on ensuring that immediate needs are taken care of first.

#### **Budget Cuts**

Budget cuts are never easy to make, but they are necessary to help eliminate the State's fiscal deficit. Your Committee reduced the budget of every department except the Department of Public Safety.

Not all departments will be affected equally by the foregoing budget cuts. Because of the size of these budget cuts, your Committee is concerned about their impacts on the delivery of State-provided services and the integrity of public service.

When budget cuts of this magnitude are made, State employees will certainly be impacted through the elimination of their jobs. At this juncture, the State simply cannot afford these increases at the expense of eliminating more positions and programs. Your Committee takes no pleasure in laying off State employees to help eliminate the State's fiscal deficit, and is very much concerned about the welfare of each individual who will be laid off.

To minimize future layoffs, your Committee has also suspended the funding of collective bargaining increases. Funding the collective bargaining increases would cost the State at least \$\_\_\_\_\_ more funds. These increases were based on Council projections which have changed dramatically since the agreement was made, making it prohibitive to fund these increases at this time.

#### **Eliminating Programs**

Your Committee made deep vertical cuts, eliminating the following programs which will save \$5,002,957 and cut a total of 70.90 permanent and temporary positions:

- (1) The Agribusiness Development Corporation (ADC);
- (2) The Office of Information Practices;
- (3) The High Technology Development Corporation (HTDC);
- (4) The Bishop Museum Subsidy;
- (5) Preventive Health Services;
- (6) The Nutrition Program;
- (7) The Commission on Persons with Disabilities;
- (8) The Community Adolescent Program;
- (9) The Peer Education Program;
- (10) The Office of Environmental Quality Control (OEQC);
- (11) The State Health Planning and Development Agency;
- (12) The Apprenticeship Division;
- (13) The Commission on Employment and Human Resources;
- (14) The Hawaii State Occupational Information Coordinator;
- (15) The Hawaii Delivery Information Systems;
- (16) The Aquaculture Development Program (ADP); and
- (17) The Commission on the Status of Women.

Necessary functions provided by these eliminated programs have been reassigned to departments or agencies.

#### **Consolidating Programs**

Consolidating programs and departments that have overlapping or related functions or customers can result in more effective use of limited personnel and program resources. Your Committee significantly downsized certain programs, as well as consolidated certain essential programs, to make more effective use of these resources. For example, the HTDC would be merged into the Energy Development and Management Program. The Labor and Industrial Relations Appeals Board would be merged into the Hawaii Labor Relations Board. These two consolidations will result in cost savings of \$719,000.

When reorganizing programs, your Committee considered the nature of the services provided by the particular program. For example, services needed to address an immediate threat to the public health and welfare were given precedence over services focusing on prevention or intervention. In addition, your Committee sought to eliminate the duplication of services to facilitate greater efficiency in the provision of services to the public.

#### **Means of Financing Programs**

Your Committee attempted to improve the efficiency of certain programs by restructuring their means of financing. To reduce general fund spending, your Committee, where appropriate, changed the source of funding for state programs that provide specific benefits to individuals or businesses from the general fund to user fees.

This measure also provides for program conversions of twelve programs, resulting in general fund savings of \$4,672,806. Funding for these 12 programs will be converted from general fund moneys to nongeneral fund moneys over time. In some cases, special funds were created so that the program will no longer require the appropriation from the general funds, but continue to be self-sustaining from the collection of fees and other sources of revenue.



### Management Efficiencies

Management efficiency improvements make better use of existing personnel, facilities, and equipment to achieve State program goals. Your Committee, through H.B. No. 2552, H.D. 1, has mandated that all vacant positions are not to be filled without the approval of the Governor or Chief Justice.

In addition, your Committee also mandated that duplicative government services be eliminated by establishing the Government Efficiency Task Force to determine areas of duplication and recommend the consolidation of duplicative functions (H.B. No. 2567, H.D.2).

### **APPROPRIATIONS FOR FISCAL YEAR 1998-1999**

Last session, the Legislature passed a two-year operating budget for the Executive Branch, totalling \$11,587,109,804 (of which \$6,202,139,282 was financed through the general fund). Of this sum, \$5,782,448,512 (of which \$3,107,926,855 was financed through the general fund) was appropriated for FY 1997-1998, and \$5,804,661,292 (of which \$3,094,212,427 was financed through the general fund) was appropriated for FY 1998-1999.

In addition, to exacerbate current fiscal woes, your Committee approved several measures making emergency appropriations totalling \$21,501,638 to address shortfalls in the current fiscal year. Your Committee is alarmed at the number of emergency funding requests and urges the departments to be fiscally prudent in its expenditures.

This session, the Governor's supplemental budget requested an additional \$111,147,884 (of which \$46,472,764 was financed through the general fund) for FY 1998-1999. As officially proposed by the Governor, the amended budget for FY 1998-1999 would have totalled \$5,915,809,176 (of which \$3,140,685,191 was financed through the general fund). However, as a result of the Council's gloomy forecast in January, the Governor subsequently recommended cuts totalling \$111,645,217 to programs financed through the general fund. After closely reviewing the supplemental budget, your Committee has reduced the total budget for FY 1998-1999 to \$5,700,383,970 (of which \$2,974,218,935 was financed through the general fund) which represents \$215,425,207 (of which \$166,466,255 was financed through the general fund) in net cuts from the Governor's official \$5,915,809,176 amended budget total, or a 3.64 percent decrease.

### **HIGHLIGHTS**

#### Economic Development

Your Committee took sound and decisive action in several key economic areas to improve the State's bleak economic situation. Recognizing the importance of the tourism industry to the economic recovery of the State, your Committee took a comprehensive look at other legislative measures in developing its supplemental budget. Your Committee examined the merits of the proposals contained in H.B. No. 2554, H.D. 2. The increase of the transient accommodations tax (TAT) rate under this bill is a far-reaching solution to raise the necessary funds for tourism by providing a stable and reliable source of funding for tourism marketing, promotion, and advertising.

Specifically, H.B. No. 2554, H.D. 2, increases the TAT from six percent to 11.5 percent beginning on January 1, 1999, while exempting hotel room rentals from the general excise tax (GET). The net tax increase to visitors will therefore be only a 1.5 percent increase. The creation of the tourism special fund under H.B. No. 2554, H.D. 2, will provide a dedicated source of funding for tourism promotion by earmarking a portion of the revenues from the TAT for this purpose. This tax increase is intended to accomplish several things, including: bolstering the State's number one industry by providing essential funding for tourism promotion, paying off the debt service of the Hawaii Convention Center, and enabling the deposit of additional funds into the state general fund. It is your Committee's belief that a stable source of funding will enable Hawaii's tourism industry to stay competitive with other visitor destinations and better plan for and address the needs of the tourism industry in the short- and long-term.

Although your Committee reduced funds by \$13,500,000 for the operations and marketing of tourism through the Office of Tourism supplemental budget, the funding proposals in H.B. No. 2554, H.D. 2, offset the budgetary actions taken by your Committee. Under the same bill, funds will be earmarked for the new Hawaii Tourism Board authorized to develop and implement a tourism marketing plan and to contract for tourism marketing, development, and promotion. Furthermore, under this proposal, personnel from the Office of Tourism will be transferred to the Hawaii Tourism Board and the Department of Business, Economic Development, and Tourism (DBEDT) will be responsible for tourism research. The centralization of the services, functions, and funding of tourism under a single entity will ensure better accountability, efficiency, and effectiveness for the future of tourism. As the undisputed revenue generator for the entire State, providing approximately one-quarter of Hawaii's economy and one-third of all jobs in the State, funding for tourism is an essential component of your Committee's supplemental budget.

Recognizing the need to stimulate the economy by diversifying Hawaii's industries, your Committee appropriated funds for various sports events. Your Committee secured funding to ensure that the NFL Pro Bowl is held in Hawaii through 2001, with an optional year for either 2002 or 2003, by appropriating \$1,100,000 to meet the 1999 NFL Pro Bowl contractual agreement. In addition, your Committee appropriated \$100,000 to promote the 1999 Sony Hawaiian Open. Appropriations for sports events are revenue-generating activities that infuse additional revenues into the State through visitor spending. Sports events and other like events also promote Hawaii through worldwide television and media coverage of these events.

In keeping in line with its effort to utilize existing resources more efficiently and effectively, your Committee examined ways to strengthen Hawaii's agriculture industry as it goes through a period of immense flux. Your Committee supported the Department of Agriculture's (DOA) efforts to become more self-sufficient. The Animal Quarantine and Milk Control Programs were converted from general funds to special funds, which will result in a savings of \$1,225,088. Your

Committee also appropriated \$20,000 to support Hawaii's cattle industry in investigating the cause of bovine tuberculosis (BT) on Molokai. The detection of BT in one cow on Molokai by the U.S. Department of Agriculture (U.S.D.A.) suspended Hawaii's BT-free status, allowing several key states that import Hawaii cattle to place pre-entry restrictions on Molokai cattle. This appropriation will enable the State to reestablish its BT accredited-free status with the U.S.D.A.

Due to the invaluable merits of the agriculture industry on other sectors of the State economy, your Committee supported agricultural research by leaving \$642,413 in the budget base.

The pressing need to maximize scarce resources in a distressed economy necessitated cuts in several program areas. In an effort to consolidate the functions and services of State agencies, your Committee deleted three programs in the economic development area. The abolishment of ADC, HTDC, and ADP will require existing agencies with like functions and responsibilities to assume the duties of these non-core programs. The consolidation of ADC, HTDC, and ADP under DOA, DBEDT, and Department of Land and Natural Resources (DLNR), respectively, will increase the overall efficiency and effectiveness of the State's agriculture, technology, and aquaculture industries by eliminating overlapping or redundant functions through consolidation and freeing up limited general funds to provide for other core and emergency needs. While your Committee recognizes the achievement of the Hawaii Strategic Development Corporation (HSDC) in fully investing its venture capital funds, your Committee nonetheless was compelled to reduce HSDC funding by \$400,000, leaving \$600,000 in FY 1998-1999 budget base.

### Education

Your Committee continues to support public education as an institution that is fundamental to our democratic way of life. While the budgets for FY 1998-1999 of other departments sustained substantially larger reductions, the general fund budget for the Department of Education (DOE) was reduced by only five percent.

The reductions to the education budget were determined in large measure by accepting recommendations made by the BOE (BOE). In determining its recommended reductions, BOE decided not to eliminate many of the activities funded by its \$24 million supplemental budget. The rationale was that these activities are integral to the core mission of the Department of Education. Rather, BOE shifted funding away from other programs that are not as strongly related to the core mission. BOE also recommended raising various fees to increase revenues. Your Committee agrees with all of the recommendations made by BOE except for the recommendation to raise the student/teacher ratio in kindergarten through second grade. Your Committee did not approve increasing the class size to save \$10.4 million. Your Committee urges BOE to find other savings to continue the current student/teacher ratio in kindergarten through second grade.

In accordance with the recommendations of BOE, fees will be raised in three areas to generate additional funds for education. The increase in these fees requires legislative action on another bill and administrative action by the DOE. Specifically, H.B. No. 3452, H.D. 2, authorizes DOE to raise the price of school lunches to cover 100 percent of the non-federal cost of preparing the lunches. This measure will allow an additional \$1.5 million to be generated. In addition, DOE intends to raise fees for the after-school A-Plus program to generate an additional \$1.5 million. Third, DOE intends to raise bus fares, pursuant to a public hearing, netting an additional \$1.5 million.

Funding was reduced to such non-core programs as Regular Summer School Subsidies (\$0.8 million), the Summer Program for Enrichment of Basic Education (\$0.3 million), Project Healthstart (\$0.03 million), the Summer Enrichment Extension at Lahainaluna (\$0.04 million), two legislative initiatives, namely Additional Instructional Materials (\$2.5 million) and Additional School Priority Fund (\$1.0 million), Incentive Innovation Grants (\$1.0 million), the Special Needs Program (\$3.1 million), the Grade School Priority Fund (\$1.9 million), Instructional Support (\$0.6 million), and current expenses in various program areas (\$5.2 million).

In addition, H.B. No. 2836, H.D. 1, authorizes BOE to establish the age in which children may begin to attend kindergarten. Requiring children to be one-month older than the existing age would reduce costs by \$1.8 million.

Appropriations were increased for equipment and books for new schools and facilities for four schools in the Central District, five schools in the Leeward District, two schools in the Kauai District, seven schools in the Hawaii District, and four schools in the Maui District. In addition, \$4.4 million was added for special education teacher positions, educational assistants, and operational expenses for special education. Other funds were added for pre-service training of special education teachers and speech pathologists, and partial scholarships for candidates seeking special education and speech pathologist certification.

Your Committee believes that appropriations for public education will enable schools to continue operations without affecting classroom learning and will enable the State to satisfy the Felix v. Cayetano Consent Decree (Felix Consent Decree).

### Higher Education

The Task Force recognized the contributions made by the University of Hawaii (University) to the State's economy in terms of educating a workforce and attracting funds for research and training from sources outside the State. The Task Force also found that institutions of higher education in other areas of the nation have been used as engines to drive the local economy, particularly in areas of technology, by providing the research needed to commercialize products. In this way, the University has nearly an unlimited potential to support Hawaii's economy, particularly in fields such as tropical agriculture, ocean sciences, and astronomy. However, the University is now constrained by a variety of requirements.

H.B. No. 2560, H.D. 2, enables the University to set its own priorities, and to own and manage funds, its lands, and other resources, including retaining its own legal counsel. Overall, the bill allows the University to operate as a quasi-public corporation. The bill also encourages a stronger entrepreneurial approach by the University, with the hope that it will attain "world-class" standing in key areas that can provide the foundation for business development.

Your Committee supports the initiative to allow more flexibility for the University. It should be noted that the bill also established mechanisms to make the University accountable for its new responsibilities. In light of the existing role and potential impact of the University in economic development, your Committee has limited reductions to the general fund budget of the University to five percent. The \$279,196,421 in general fund appropriations made in Act 328, SLH 1997, has been reduced to \$259,372,009.

The following specific reductions were made to University program areas:

- (1) University of Hawaii at Manoa reduced by \$8.4 million;
- (2) University of Hawaii at Hilo reduced by \$0.8 million;
- (3) University of Hawaii at West Oahu reduced by \$0.1 million;
- (4) Community College System reduced by \$3.3 million; and
- (5) Overall administration reduced by \$0.9 million.

An appropriation of \$1.7 million was added to continue the development of the new Student Information System that will centralize student information and increase efficiency in student record keeping.

In addition, expenditure ceilings were established for the Hawaiian Language College Revolving Fund and Theater Revolving Fund, the Community College Commercial Enterprises Revolving Fund, and the Western Governors University Special Fund.

Your Committee believes that, in this world in which information, computers, and high technology are becoming increasingly prominent, a highly educated workforce and strong research capacity are keys to the continued prosperity of our State. The University will continue to play a critical role in determining the quality of life for the people of Hawaii.

#### Health

The appropriations authorized by your Committee in the area of health will protect and promote the physical and psychological health of the people of Hawaii through the implementation of core public health functions.

In recognizing the Department of Health's (DOH) mission, your Committee has provided adequate funding for core programs and functions that would save lives or prevent the immediate threat to the physical, mental, or social health and safety of the people of Hawaii. Due to tough economic times, your Committee has had to substantially reduce appropriations or abolish non-core functions and programs that did not pose an immediate danger to the overall health and well-being of Hawaii's residents.

Your Committee continues to be concerned about the State's compliance with the Felix Consent Decree and the United States Department of Justice Settlement Agreement. Your Committee is concerned about the continuing fiscal obligations and non-compliance with the Felix Consent Decree. The State has until June 30, 2000, to show substantial compliance with the requirements of the decree. However, the Felix Monitor recently reported to the U.S. District Court that the current levels of compliance does not ensure that the State's system will be in place by this date.

Therefore, your Committee has appropriated \$16,177,169 to:

- (1) Increase the number of care coordinators dedicated to coordinating the service needs of children and youth who require the most extensive and intensive mental health intervention techniques to effectively treat their mental health needs;
- (2) Meet the outpatient, residential, and respite service needs of the Child and Adolescent Mental Health Division; and
- (3) Develop a management information system of Felix-client care.

To address the need for additional community-based outpatient services available to former Hawaii State Hospital patients, \$1,643,284 has been appropriated to the Adult Mental Health Division's mental health and substance abuse special fund.

Additional assistance was authorized to fund emergency ambulance services in Maui County, specifically in the remote area of Hana. Furthermore, to simplify the fiscal management of all Medicaid-funded Developmental Disabilities services and to maximize home- and community-based service programs into one single Medicaid agency, your Committee transferred \$11,728,791 in Title XIX general fund matching moneys to the Department of Human Services (DHS).

Another major area of concern is the Hawaii Health Systems Corporation's (Corporation) inability to attain self-sufficiency. The Corporation has projected a \$41,000,000 shortfall for FY 1998-1999 resulting from various collective bargaining agreements, worker's compensation settlements, and an anticipated \$7,200,000 cash collection shortfall. Although the Corporation is anticipating cash shortfalls, your Committee would like to stress the importance of collecting existing or anticipated debts.

Your Committee will continue to monitor the progress of the Corporation to become a self-sustaining organization.

#### Human Services

The appropriations authorized by your Committee in the area of human services will provide high quality, efficient, and effective services designed toward achieving self-sufficiency for clients as quickly as possible, and to direct limited resources toward helping those least able to care for themselves.

The human services budget authorized by your Committee was based on DHS ability to:

- (1) Manage data efficiently to ensure the long-term survivability of its payment programs;
- (2) Control the cost of Medicaid Fee-For-Service; and
- (3) Accurately project its payment programs to avoid welfare overpayments.

Temporary Assistance to Needy Families (TANF) and Temporary Assistance to Other Needy Families (TAONF) are the new welfare reform programs which are designed to protect those who cannot work and to require those who can work to work by offering a package of strong work incentives, child care support for working parents, and restructured welfare benefits so it "pays to work". To provide cash assistance to single parent households who qualify for TANF, your Committee authorized \$18,885,189 in general funds for FY 1998-1999. For two-parent and non-citizen households who are eligible under TAONF, your Committee allocated \$52,560,528 for FY 1998-1999.

To provide temporary economic assistance to disabled adults with no minor dependants and who do not qualify for Social Security, your Committee has allotted \$24,761,632 for the General Assistance Program for FY 1998-1999. Your Committee has also allocated \$23,086,873 for Payments to Assist the Aged, Blind, and Disabled. Your Committee has authorized a combined total of \$20,995,730 to provide medical coverage for Hawaii's poorest residents through the Hawaii QUEST program and the Fee-For-Service Medicaid program.

Your Committee did not abolish any human service program in its entirety, although there were cuts to contracts providing training for child-care providers through one Purchase of Service (POS) contract and one Services-On-A-Fee contract. Any program that received general fund moneys above their base level of funding did so through intradepartmental transfers, from TANF or other departmental programs, as well as interdepartmental transfers, from the DOH. There were also various federal fund ceiling increases, as well as increases to one special fund, two revolving funds, and one interdepartmental transfer fund.

Your Committee realizes that funding for human service programs are client driven -- as the eligible client population increases, so do expenditures. Your Committee understands that client needs vary and thus contribute to inaccurate projections, but would like to stress the importance for DHS to calculate as accurately as possible projections for the budget.

The most important highlight of the FY 1998-1999 supplemental budget submitted by DHS was the transfer-out of general funds from TANF. DHS overprojected caseloads and underprojected the amount of income earned by welfare recipients who are working. These two factors resulted in a significant surplus of general funds for this program. In addition, much of this surplus was transferred-out to fund other areas within DHS. Furthermore, the balance of the surplus was reduced to help decrease DHS' general fund appropriation for FY 1998-1999.

Your Committee finds that DHS has been very successful in reducing caseloads and increasing work and income for recipients of TANF, but must advise DHS that future efforts to achieve their goals will be met with potentially fewer resources. To assist the most needy residents of the State in a cost-effective manner, DHS must continue to balance the need to eliminate non-essential expenses and maintain essential core services. Cost-control measures in the Medicaid programs, especially Medicaid Fee-For-Service, are crucial in helping to responsibly balance DHS' budget.

#### **Government Wide Support**

A major concern to your Committee is the size of the State's fixed costs. Through favorable bond issuances, rate negotiations, careful projections of health fund enrollees, and other cost saving measures, the State is trying to reduce the rate of growth in its fixed costs. For the coming fiscal year, fixed costs include debt service (\$399 million), health fund premiums (\$202 million), pension accumulation payments (\$120 million), social security and medicare contributions (\$95 million), unclaimed property payments (1.7 million), witness fees and defendant expenses (\$1.5 million), and court-appointed counsel (\$2.8 million).

The Governor's message to the State called for the ten per cent reduction of telephone lines and the costs associated with those telecommunication infrastructure. The Legislature adjusted this reduction percentage to fifteen per cent and \$258,990 in costs. The Governor also called for the reduction of Physical Plant Operations and Maintenance by \$5,000,000. The Legislature increased the reduction to more than \$10,000,000. These cost reductions are representative of the State's fiscal crisis and your Committee's resolve to make difficult decisions for the financial benefit of the State.

Although faced with difficult decisions with the reduction of state programs, position vacancies, and operating costs, your Committee recognizes the efforts of the departments in achieving cost savings as illustrated by the savings of \$1,859,245 in leasing costs due to the purchase of the AAFES building.

Your Committee has also deleted or reduced funding in several program areas including:

- (1) Deleting the Office of Information Practices and transferring the Director and a secretary to the Office of Ombudsman. This resulted in the elimination of six permanent positions for a savings of approximately \$436,504;
- (2) Deleting \$8,621 which comprises the total budget of the Commission on Uniform Legislation;

- (3) Reducing approximately twenty-five percent of general funds for vacant positions in the Department; and
- (4) Cutting \$1,000,000 from the Career Criminal Prosecution and Victim Witness Program. This program was listed by the Department of the Attorney General as a low priority, nonetheless, over \$1,800,000 remains in this program's budget.

### Public Safety

The most significant problem facing Hawaii's criminal justice system is the State's lack of prison beds. This situation has had an adverse effect on all facets of Hawaii's justice system. Over public cries for stiffer penalties against law violators, lawmakers, aware of the serious overcrowding in our prisons, are nevertheless reluctant to mandate harsher penalties and longer prison terms because they know that there is no place to house these law violators. Likewise, Hawaii's courts are reluctant to impose full sentences for the same reasons. The Hawaii Paroling Authority, cognizant of the fact that the public blames them for the "revolving door" problem, is still left with the insurmountable task of deciding who is paroled and who remains behind bars. The Spear Consent Decree still haunts the State. The ACLU class action suit filed in 1984, which challenged the conditions of confinement at the Oahu Community Correctional Center (OCCC) and the Women's Community Correctional Center (WCCC), resulted in a settlement agreement that is at the heart of Hawaii's prison overcrowding problem. Hawaii's inmate populations continue to rise beyond the capacity of the State's current prison facilities.

Your Committee is aware that in 1996 the State and the ACLU signed an agreement wherein the Spear Consent Decree would be dismissed contingent upon the State's compliance with certain conditions including:

- (1) The opening of the Olomana cottage at WCCC;
- (2) The construction and operations of an 84-bed addition at WCCC; and
- (3) Fire safety improvements and other maintenance improvements at WCCC and OCCC.

To achieve compliance with the Spear Consent Decree, your Committee approved appropriations for:

- (1) Approximately \$5,447,000 for the immediate transfer of 300 inmates to out-of-state correctional facilities;
- (2) Development of a new 200-bed minimum security housing compound and related support facility for the KASHBOX substance abuse program;
- (3) Development of a 64-bed medium security pretrial housing complex at the Hawaii Community Correctional Center; and
- (4) Funding for the development of a new 84-bed minimum security housing unit at WCCC.

Your Committee has reduced the overall budget for the Department of Public Safety by:

- (1) Eliminating a requested \$272,142 appropriation from the general fund to staff and maintain a 168-bed expansion at OCCC;
- (2) Reducing \$86,861 of general fund appropriations for POS contracts in the areas of work release, counseling services, substance abuse, and sex offender treatment; and
- (3) Eliminating funding of \$324,114 of general funds which was earmarked for the establishment of a new correctional information system for management, escape, and inmate location information. Your Committee finds that the Department of Public Safety currently has an operational information system making the implementation of a new system a low priority under the current fiscal situation.

### Employment

The pressures of Hawaii's stagnant macroeconomy and heavy dependence upon unpredictable Asian markets have forced our State government to adjust to shrinking tax revenues and budget shortfalls which, in turn, have forced all State departments to face severe cut backs. However, your Committee believes it is possible to maintain acceptable levels of public service on a fiscally responsible budget. Fiscal stringency does not necessitate substandard service.

For example, the Department of Labor and Industrial Relations (DLIR) budget authorized by your Committee, tried to achieve good State government inexpensively by focusing on three efforts:

- (1) Streamlining functions;
- (2) Maximizing federal funding; and
- (3) Privatizing.

Despite DLIR's general fund budget cut of 13.14 percent, the fourth largest cut in a State department, your Committee believes that adequate public services will continue to be provided.

For FY 1998-1999, DLIR did not request supplemental general funds, responsibly acknowledging the State's bleak financial position and outlook. DLIR's two notable requests were for federal fund allotments for the Welfare-to-Work programs. At no cost to the State, this program will assist welfare recipients to become job-ready via training and

counseling services provided by DLIR. Your Committee approved these two requests and allotted \$2.8 million in federal funds for the Neighbor Islands program and another \$4.6 million allotment to the Oahu program.

Lastly, your Committee remains committed to advancing collaborative efforts between the public and private sector. Public-Private partnerships often result in the highest quality of government-provided goods and services at the lowest possible cost. Therefore, your Committee passed H.B. No. 3199, H.D. 2, to address the privatization issue raised by Konno et. al. v. County of Hawaii.

### Transportation

Access to a good transportation system is necessary to provide the mobility needed in today's society. Since the beginning of the State's fiscal crisis, it has always been the goal of your Committee to not only reduce the State's general fund expenditures, but to reduce the expenditure levels for other sources of funding as well. Thus, the Department of Transportation (DOT), the only non-general fund department in the State, was asked to reduce its operating expenditures by five percent or \$28,535,042.

In light of these reductions, your Committee was able to address some of the growing traffic concerns of Leeward Oahu's residents with the introduction of the first Zipper Lane Highway System in the State. The Zipper Lane is a quick-change, moveable barrier system that will allow high occupancy vehicles (vehicles carrying three or more) to travel in the contra-flow direction on the freeway by borrowing a lane from the non-peak direction and separating it with a moveable concrete barrier. The Zipper Lane is scheduled to be completed in September 1998, and will start on the H-1 Freeway in Waipahu to the airport area to benefit both Leeward and Central Oahu commuters.

In keeping with the same commitment to alleviate traffic problems, your Committee appropriated funds for the relocation of three Highway Division branches from downtown Honolulu to the State Office Building at Kapolei. Matching funds were also appropriated for a Ferry Services System. If federally approved, the Ferry Services System will be funded 80 percent by federal funds and 20 percent by State funds. At the same time, H.B. No. 2366, H.D. 2, authorizes the DOT to implement an intra-island ferry system and H.B. No. 2376, H.D. 1, authorizes the DOT to implement a people mover system to be used in conjunction with each other to reduce traffic and promote tourism activity.

Hawaii's maritime planning, management, and development functions are currently dispersed among the DOT's Harbors Division, DLNR's Boating and Ocean Recreation Program, the Hawaii Community Development Authority, and the Aloha Tower Development Corporation. Having so many entities involved has resulted in inefficiencies and conflicts over maritime and nonmaritime uses. In an effort to manage Hawaii's water transportation resources more efficiently, H.B. No. 2998, H.D. 2, lays the foundation for the establishment of a single entity to be known as the Hawaii Maritime Authority.

The relationship among the transportation system, its users, and the physical environment has a significant impact on our quality of life. Hawaii's transportation strategies must recognize this relationship and maximize the State's limited resources if the overall needs of the people are to be met. The conservative direction taken by your Committee with regard to transportation will benefit the State by increasing carryover savings well into the year 2000.

### Individual Rights

The State has continued to emphasize the streamlining of departments and praise efforts leading to increased departmental efficiency and the economic self-sufficiency of department programs.

In the effort to achieve these goals, your Committee authorized the transfer of:

- (1) Fourteen positions and funds totaling \$580,328 from the Office of Consumer Protection to the Director of Commerce and Consumer Affairs Office and Administration Division; and
- (2) Thirty-five positions and funds totaling \$1,700,000 from the general fund to the compliance resolution special fund.

With these transfers, the Department of Commerce and Consumer Affairs (DCCA) will reduce reliance on the general fund from ten to three programs.

In addition, the State saved \$692,640 by converting sixteen positions from the general fund to the revolving fund in the Hawaii Public Broadcasting Authority of DCCA.

The enactment of Act 261, SLH 1997, established the captive insurance administrative special fund and a Captive Insurance Administrator to regulate the growing captive insurance industry. Your Committee supports this burgeoning industry which continues to contribute to the economic well being and growth of the State, employing management companies, attorneys, claim adjusters, and certified public accountants. In addition, the premiums received from the captives total millions of dollars, upon which taxes are paid to the State.

### Environmental Protection

Hawaii's natural environment is one of the State's most valuable resources. Funds authorized by your Committee to protect and strengthen the natural environment include moneys to support the eradication of miconia, the invasive and damaging weed currently spreading into forests on Maui and Hawaii. Funds were also appropriated for a brown tree snake coordinator to prevent alien species from becoming established in the State.

To fund these and other high priority programs, difficult budget cuts had to be made. For example, within the Department of Land and Natural Resources, 15 permanent filled positions were abolished and 40 percent of all vacant

positions were cut. In addition, \$5.1 million were transferred from the land and development and Aina Ho'omalau special funds to the general fund.

### CONCLUSION

In planning this supplemental budget, your Committee relied on the Council's December projections. This budget makes deep cuts in the government including the loss of over 600 (?) positions. Some of these are positions currently held by persons whose livelihoods rely on continuing in their positions. However, until the State economy begins to recover, your Committee realizes that there is no other alternative. Everyone will be hurt by these cuts, but unfortunately there is no longer any choice.

While these cuts are necessary to immediately address lost revenues, your Committee has sought out measures that would stimulate the economy.

Our road to recovery can only be found in strengthening our economy. Therefore, your Committee recognizes and applauds the work of the Economic Revitalization Task Force (Task Force) which was created to address Hawaii's economic woes. Members of the Task Force were appointed by the Governor, the Senate President, and the Speaker of the House of Representatives. Representing a broad spectrum of interests, the Task Force convened a number of committees to discuss critical issues, and ultimately reached consensus on a variety of recommendations for legislation. These recommendations supported four objectives:

- (1) Reduce the cost of living and doing business in Hawaii;
- (2) Improve the regulatory climate and efficiency of government;
- (3) Strengthen the marketing and promotion of tourism; and
- (4) Make structural changes to improve Hawaii's education system. Much of the legislation has been proposed in separate bills, but the overall thrust of the Task Force is supported in this bill.

These objectives led the Task Force to make several recommendations to improve the ailing economy in the areas of taxes, regulations, education, tourism, and government services. Your Committee is hopeful that these efforts, along with initiatives from earlier years like the accelerated construction spending, will help improve our economy.

In closing, your Committee recognizes that, while this supplemental budget takes into account all of the information available at this time, some areas will change and new information will be developed prior to its finalization. Some of these proposals may not remain in the final product, but their inclusion at this stage will facilitate further discussion, deliberation, and consensus-building in an effort to do something positive and proactive for the State's economy.

Notwithstanding that there are still a multitude of concerns to be addressed, indifference, inaction, and inertia are not viable options at this time. In recognition of the urgency of this situation, your Committee realizes that much needs to be done in the remaining days of this legislative session to revitalize Hawaii's ailing economy.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2500, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2500, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Marumoto and Ward.

#### **SCRep. 805-98 Finance on H.B. No. 2710**

The purpose of this bill is to provide for the supplemental appropriations and authorizations for the Judiciary by amending the Judiciary Appropriations Act of 1997 (Act 155, Session Laws of Hawaii 1997).

Your Committee finds that while Hawaii's economy has been mired in an economic slump for seven consecutive years, the economy of the rest of the nation has rebounded. As a result of the State's lagging economy, there have been significant job losses, declining wages and salaries, business closures, and a flat tax base resulting from a drop in real income. Your Committee further finds that these factors have imposed considerable day-to-day hardships on the community at-large.

Until the economy recovers, it will be necessary to make painful budget and position reductions.

Notwithstanding that there are still a multitude of concerns to be addressed, indifference, inaction, and inertia are not viable options at this time. In recognition of the urgency of this situation, your Committee realizes that much needs to be done in the remaining days of this legislative session to revitalize Hawaii's ailing economy.

Your Committee finds that the Hawaii State Judiciary has the monumental task of ensuring civil justice, adjudicating those who violate the law, and upholding the Constitutions of the United States of America and the State of Hawaii. Your Committee further finds that approximately 93 percent of the Judiciary's expenses are fixed costs, making the task of reducing its budget extremely difficult. Your Committee believes that the Judiciary is cognizant of the State's fiscal condition and has made substantial efforts to reduce its own budget while maintaining its current level of services.

Through the combined efforts of your Committee and the Judiciary itself, your Committee has made several reductions in the Judiciary's budget in a continuing attempt to address the State's monetary shortfall.

The Judiciary submitted a 1999 supplemental budget to the Legislature totalling \$1,618,479 in additional general funds. These funds were requested for the addition of two new judgeships and related juror expenses in the Family Court as well as security improvements in the district courts on the islands of Oahu and Hawaii.

However, by letter dated February 2, 1998, from the Chief Justice of the Supreme Court of the State of Hawaii, the Judiciary reduced its requested supplemental funding by \$508,704 and later withdrew its supplemental budget request in its entirety.

Your Committee wishes to express its gratitude to the Judiciary for its efforts to reduce its own budget in response to the State's fiscal crisis. Along with the withdrawal of the 1999 supplemental budget request, the Judiciary's budget was further reduced by:

- (1) \$1,193,525 in carryover restrictions for hiring, overtime, travel, and training;
- (2) \$414,366 in purchase of services contracts; and
- (3) \$299,161 in operating expenses and equipment.

Your Committee recognizes the need for spouse and child abuse treatment and counseling and, therefore, has increased the ceiling for disbursements from the Spouse and Child Abuse Special Fund by \$132,500.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2710, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2710, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Marumoto and Ward.

**SCRep. 806-98 Economic Development and Business Concerns on H.C.R. No. 31**

The purpose of this resolution is to request the Public Utilities Commission to submit legislation to implement electric competition in the State of Hawaii.

The Department of Business, Economic Development, and Tourism (DBEDT), the Hawaii Renewable Energy Alliance, and the Life of the Land provided testimony in support of this resolution. The Consumer Advocate supported the intent of the resolution. The Public Utilities Commission (PUC) opposed the resolution and Hawaiian Electric Company, Inc. recommended the resolution be held in committee. Kauai Electric, a division of Citizens Utilities, provided comments on the resolution.

Your Committee feels that electric competition in the State will spur innovations with new technologies, reduce inefficiencies, and drive costs down. The end result should be reduced electric rates for consumers. Further, your Committee wishes to support the implementation of electric competition in the State by passing legislation that will expedite PUC Docket No. 96-0493. Accordingly, your Committee has amended this resolution by requesting DBEDT to:

- (1) Examine the impediments to electric competition in Hawaii;
- (2) Provide the Legislature, by December 31, 1998, with recommendations for legislation that will expedite PUC Docket No. 96-0493; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 31, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.C.R. No. 31, H.D. 1.

Signed by all members of the Committee except Representatives Ahu Isa, Abinsay and Takai.

**SCRep. 807-98 Economic Development and Business Concerns on H.C.R. No. 6**

The purpose of this concurrent resolution is to request the Governor of the State of Hawaii to work with Hawaii's Congressional Delegation to bring about the designation of the Kau District on the island of Hawaii as an Empowerment Zone or an Enterprise Community under the Federal Empowerment Zones and Enterprise Communities Program.

The Hawaii Operating Engineers Industry Stabilization Fund provided testimony in support of the concurrent resolution. The Department of Business, Economic Development, and Tourism (DBEDT) supported the intent of the concurrent resolution.

The Federal Empowerment Zones and Enterprise Communities Program is a presidential initiative designed to provide communities that experience a high incidence of poverty, unemployment, and general distress with the opportunity to expand, develop, and move toward self-sufficiency through innovative and comprehensive economic development initiatives. Given the Kau District's history of pervasive poverty, economic distress, and high unemployment, your Committee finds that the Kau District is an ideal candidate for assistance and designation as an Empowerment Zone or Enterprise Community.

Your Committee has amended this concurrent resolution by:



- (1) Requesting the County of Hawaii and the Kau community to work with the Governor and Hawaii's Congressional Delegation to bring about the designation of the Kau District as an Empowerment Zone or an Enterprise Community; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 6, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 6, H.D. 1.

Signed by all members of the Committee except Representatives Ahu Isa, Abinsay and Takai.

**SCRep. 808-98 Economic Development and Business Concerns on H.C.R. No. 12**

The purpose of this concurrent resolution is to request the Legislative Reference Bureau (LRB), with assistance from the Department of Taxation, the Department of Business, Economic Development, and Tourism, and the East-West Center, to develop an action plan to develop Hawaii as a base for multinational enterprises.

The action plan should include:

- (1) Impediments or barriers that prevent multinational companies from locating and operating in Hawaii;
- (2) Incentives to encourage multinational companies to locate to and operate in Hawaii;
- (3) The experiences of other states and jurisdictions that are home to multinational enterprises; and
- (4) Recommendations for creating a more business-friendly environment in Hawaii.

The Department of Business, Economic Development, and Tourism (DBEDT) supported the concept of this resolution.

Your Committee has amended this concurrent resolution by:

- (1) Including in the action plan the reasons why U.S. mainland companies and international businesses have located operations in Hawaii; and
- (2) Making technical nonsubstantive amendments for purposes of style and clarity.

Your Committee believes that part of DBEDT's involvement in the development of the action plan should include the updating of existing business development and marketing studies that discuss the impediments to developing Hawaii as a base for multinational enterprises.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 12, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 12, H.D. 1.

Signed by all members of the Committee except Representatives Ahu Isa, Abinsay and Takai.

**SCRep. 809-98 Economic Development and Business Concerns on H.C.R. No. 30**

The purpose of this concurrent resolution is to request the Governor to submit a State of Hawaii application to the United States Secretary of Transportation to authorize foreign air carriers to conduct certain expanded cargo transfer activities at international airports in the State of Hawaii.

The Department of Transportation testified in support of the intent and purpose of this resolution.

Your Committee has amended this resolution by requesting the Hawaii Congressional delegation to facilitate the United States Secretary of Transportation's approval to authorize foreign air carriers to conduct certain expanded cargo transfer activities at international airports in the State of Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 30, as amended herein, and recommends that it be referred to the Committee on Transportation, in the form attached hereto as H.C.R. No. 30, H.D. 1.

Signed by all members of the Committee except Representatives Ahu Isa, Abinsay and Takai.

**SCRep. 810-98 Agriculture on H.C.R. No. 41**

The purpose of this concurrent resolution is to request the Department of Agriculture (DOA) to explore the feasibility of establishing a multimedia education program based on New Zealand's example, to advise incoming passengers of the penalties and consequences involved in importing illegal plants and animals into Hawaii.

The DOA and the Department of Transportation submitted testimony in support of the intent of this measure.

Your Committee believes that the multimedia education program should take a more positive approach in educating and informing visitors of the detrimental effects of alien species on the State's environment, economy, health, and lifestyle, rather than highlighting the penalties involved in violating Hawaii's quarantine laws.

Your Committee has amended this concurrent resolution by:

- (1) Specifying that the multimedia education program be used to inform and educate incoming passengers of the detrimental effects and seriousness of bringing alien species into the State, rather than to inform incoming passengers of the penalties involved in smuggling illegal plants and animals into the State;
- (2) Specifying that the multimedia education program be a public awareness effort;
- (3) Changing the title of the measure to read: "REQUESTING THE FEASIBILITY OF ESTABLISHING A MULTIMEDIA EDUCATION PROGRAM TO INFORM AND EDUCATE INCOMING PASSENGERS OF THE DETRIMENTAL EFFECTS AND SERIOUSNESS OF BRINGING ALIEN SPECIES INTO THE STATE";
- (4) Deleting references to the New Zealand example; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 41, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 41, H.D. 1.

Signed by all members of the Committee except Representatives Takai and White.

**SCRep. 811-98      Agriculture on H.C.R. No. 42**

The purpose of this concurrent resolution is to request the School Food Services Program of the Department of Education (DOE) to adopt an official policy to purchase locally produced food, supplies, and equipment whenever possible.

The Hawaii Farm Bureau submitted testimony in support of this measure. DOE submitted testimony in support of the intent of this measure.

Your Committee finds that encouraging Hawaii's school system, which purchases as much as \$25,000,000 on an annual basis for food products, to purchase locally produced food products would increase the business viability of Hawaii's farmers and manufacturers.

Your Committee has learned that the purchase of supplies and equipment does not fall under DOE's purview. Thus, your Committee has amended this measure by removing references to locally produced supplies and equipment.

Your Committee has also amended this measure by:

- (1) Changing the title to read: "REQUESTING THE SCHOOL FOOD SERVICES PROGRAM OF THE DEPARTMENT OF EDUCATION TO ADOPT AN OFFICIAL POLICY TO PURCHASE LOCALLY PRODUCED FOOD WHENEVER POSSIBLE";
- (2) Transmitting certified copies of the concurrent resolution to the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources and the President of the Hawaii Farm Bureau; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 42, as amended herein, and recommends that it be referred to the Committee on Education, in the form attached hereto as H.C.R. No. 42, H.D. 1.

Signed by all members of the Committee except Representatives Takai and White.

**SCRep. 812-98      Agriculture on H.C.R. No. 45**

The purpose of this concurrent resolution is to request the Department of Health (DOH) and the Department of Agriculture (DOA) to develop appropriate measures to identify and eliminate the regulatory impediments restricting the development of the aquaculture industry in Hawaii.

DOA, the Hawaii Aquaculture Association, Mangrove Tropicals, the Hawaii Farm Bureau, Boke' Farms, and an individual testified in support of this measure. DOH commented on this measure.

Your Committee has amended this concurrent resolution by:

- (1) Making references to the Section 401 Water Quality Certification Permit as a regulatory impediment that restricts the development of the aquaculture industry in Hawaii; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 45, as amended herein, and recommends that it be referred to the Committee on Energy and Environmental Protection in the form attached hereto as H.C.R. No. 45, H.D. 1.

Signed by all members of the Committee except Representatives Takai and White.

**SCRep. 813-98 Health on H.C.R. No. 53**

This resolution will analyze proposed regulation of professional mental health counselors and rehabilitation counselors and assess whether such enactment is consistent with State policy.

Your Committee received testimony from the Child and Family Service, Hawaii Rehabilitation Counseling Association, the Hawaii Counseling Association and three private individuals in favor of this measure. Forty-four states now license counselors thus assuring their residents receive consistent and accountable standards of practice. Without such a regulatory system Hawaii residents may fall prey to unscrupulous individuals calling themselves counselors. Such a system also provides a recourse for those wanting to report licensure abuses.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 53 and recommends that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kawakami, Saiki and Stegmaier.

**SCRep. 814-98 Health on H.C.R. No. 58**

This resolution requests a study on the cost-effectiveness of direct access to dermatologists in managed care plans.

Your Committee received testimony from the Hawaii Medical Services Association, the Hawaii Medical Association and two private individuals in support of this measure. Hawaii has one of the highest rates of skin cancer in the world. However managed plan subscribers must first go through a "gatekeeper" before being permitted to see a dermatologist. This resolution seeks a study to support and confirm national studies that show direct dermatologist access in managed care plans is cost effective.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 58 and recommends that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kawakami and Saiki.

**SCRep. 815-98 Health on H.C.R. No. 35**

The purpose of this concurrent resolution is to ensure the improvement of health facilities and make available sufficient medical services to all residents living in the districts of Puna and Ka'u by requesting the Department of Health (DOH) to develop a rural health plan for the districts of Puna and Ka'u.

Ke Ola O Hawaii and Ka Anuenue Area Health Education Center submitted testimony in support of this measure. DOH submitted testimony in support of the intent of this measure. The State Health Planning and Development Agency submitted comments.

Your Committee finds that in these days of scarce resources and a growing need to be collaborative and creative in funding locally-driven solutions to problems, a far more contemporary approach would be to look at the Big Island as a whole. In this way, there will be greater assurance that scarce resources are used most effectively and efficiently island-wide, and that maximum use is made of extenders such as telehealth, midlevel practitioners, and complementary medicine.

Your Committee has amended this measure by:

- (1) Broadening the scope of the plan for the island of Hawaii as a whole, emphasizing the districts of Puna and Ka'u;
- (2) Acknowledging that the problems faced by Puna and Ka'u also apply to the rest of the Big Island;
- (3) Changing the title to read: "REQUESTING THE DEVELOPMENT OF A RURAL HEALTH PLAN FOR THE ISLAND OF HAWAII"; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 35, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 35, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami and Saiki.

**SCRep. 816-98 Health on H.R. No. 16**

The purpose of this resolution is to enhance the state's rate of organ donation by requesting the Legislative Reference Bureau (LRB) to study ways to encourage and facilitate organ donation in Hawaii.

The Filipino Coalition for Solidarity, the Organ Donor Center of Hawaii, and several individuals submitted testimony in support of this measure. The Hawaii Nurses' Association submitted testimony in support of the intent of this measure. LRB submitted comments.

Your Committee finds that several states have implemented legislation that has increased their rate of organ donation. Examining these approaches could offer potential responses to improve Hawaii's rate of donation, thus providing life-saving and life-enhancing options to our citizens.

Your Committee has amended this measure by:

- (1) Requesting that the study examine culturally appropriate approaches taken by the mentioned states to encourage and facilitate organ donation;
- (2) Transmitting a copy of the resolution to the Executive Director of the Minority Organ Tissue Transplant Education Program of Honolulu; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 16, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.R. No. 16, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami and Saiki.

**SCRep. 817-98 Health on H.C.R. No. 56**

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a study to determine the viability of including chiropractic coverage under various insurance policies in the State.

The Hawaii Medical Service Association commented on this measure.

Your Committee notes that in response to Act 331, Session Laws of Hawaii (SLH) 1987, the Legislative Auditor conducted a study that assessed the social and financial effects of the proposed mandated coverage in Act 331, SLH 1987. Your Committee believes that an update of this study would provide the Legislature with the necessary information in their legislative decision-making capacities with regard to the feasibility of including chiropractic services as a available service under the various health insurance policies of the State.

Upon consideration, your Committee has amended this concurrent resolution by:

- (1) Requesting that the Legislative Auditor conduct a follow-up study to the 1988 report entitled, "Study of Proposed Mandatory Health Insurance for Chiropractic Services";
- (2) Changing the title of the concurrent resolution to accurately reflect the BE IT RESOLVED clause and to read as follows: "REQUESTING A FOLLOW-UP STUDY TO DETERMINE THE VIABILITY OF INCLUDING CHIROPRACTIC COVERAGE UNDER VARIOUS INSURANCE POLICIES IN THE STATE";
- (3) Making reference to the Legislative Auditor's 1988 report in the WHEREAS clauses; and
- (4) Making technical, nonsubstantive amendments for clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 56, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.C.R. No. 56, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami, Saiki and Stegmaier.

**SCRep. 818-98 Health on H.C.R. No. 57**

The purpose of this concurrent resolution is to gather objective evidence regarding the efficacy, safety, and cost effectiveness of naturopathic services by requesting the Legislative Reference Bureau (LRB) to conduct a study evaluating the feasibility and economic impact of requiring health insurers to offer an optional rider which includes naturopathic coverage.

Several individuals submitted testimony in support of this measure. The Coalition for Natural Health and two individuals submitted testimony in opposition to this measure. The Hawaii Medical Service Association and LRB submitted comments. The Hawaii Medical Association did not oppose the intent of this concurrent resolution, but pointed out inaccuracies in the wording of it and requested that your Committee hold this measure.

Your Committee finds that updated information is needed in making policy decisions with regard to health insurance coverage for naturopathic care. Thus, your Committee has amended this measure by:

- (1) Requesting the Legislative Auditor, instead of LRB, to conduct a follow-up study of the 1989 Legislative Auditor's report entitled, "Study of Proposed Mandatory Health Insurance for Naturopathic Care";

- (2) Changing the title to read: "REQUESTING A FOLLOW-UP STUDY ASSESSING THE SOCIAL AND FINANCIAL IMPACT OF MANDATORY HEALTH INSURANCE FOR NATUROPATHIC CARE";
- (3) Correcting inaccuracies that give the impression that a naturopathic physician has the same extensive medical training as medical physicians;
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 57, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.C.R. No. 57, H.D. 1.

Signed by all members of the Committee except Representatives Kawakami and Saiki.

**SCRep. 819-98 Higher Education on H.C.R. No. 10**

The purpose of this concurrent resolution is to support the East-West Center by urging all relevant parties to maintain the vital role played by the East-West Center.

The University of Hawaii testified in support of this measure, requesting that amendments be made to remove any references to its acquisition by the State or University of Hawaii. The East-West Center Association and the East-West Center Participants Association testified in opposition to this bill.

Your Committee finds that the East-West Center is a highly-respected international institution that integrates Hawaii with the Asia Pacific region. In this regard, the East-West Center is an irreplaceable resource.

The concurrent resolution has been amended by:

- (1) Deleting all references to the acquisition of the East-West Center by the State or the University of Hawaii;
- (2) Eliminating the formation of the task force, and instead encouraging Congress to strengthen and support the East-West Center;
- (3) Adding that the East-West Center serves as a bridge between the United States and the Asia Pacific region, and that it strengthens relationships among these nations;
- (4) Adding a sampling of names of those who have participated in East-West Center programs;
- (5) Revising the title to conform to the revised substance of the concurrent resolution; and
- (6) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 10, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 10, H.D. 1.

Signed by all members of the Committee except Representatives Santiago, Tarnas, Halford and McDermott.

**SCRep. 820-98 Ocean Recreation and Marine Resources on H.C.R. No. 22**

The purpose of this concurrent resolution is to request the establishment of a task force to study the feasibility of and to make recommendations for a recreational marine fishing license.

Your Committee received testimony in favor of this measure from the Board of Land and Natural Resources, the Hawaii Fishermen's Association, Tropicilla Productions, and several members of the general public.

Testimony in opposition to this measure was received from a member of the general public.

Your Committee finds that a useful first step toward general discussion and collaborative decision making is to create a task force to discuss, with the stakeholders, the feasibility of establishing a recreational marine fishing license. Your Committee recognizes that the task force would provide its recommendations to the Legislature, including any proposed legislation. The Legislature would then review such measures through the public hearing and decision making processes. In this way, public and stakeholders' participation will be maximized on this very important public policy issue.

After reviewing the testimony, your Committee has amended this measure by:

- (1) Requesting that representation from the Neighbor Islands be included in the task force;
- (2) Identifying specific issues for the task force to address, including potential impacts on Native Hawaiians, subsistence fishing, educational requirements and opportunities, financial matters such as a proposed fee structure, and the purpose for which the collected money would be spent; and
- (3) Making technical, non-substantive revisions for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 22, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 22, H.D.1.

Signed by all members of the Committee except Representatives Goodenow, Yoshinaga and Meyer.

**SCRep. 821-98      Agriculture on H.C.R. No. 43**

The purpose of this concurrent resolution is to urge the United States Congress to require that all agricultural products imported into Hawaii have a designation of country or origin and a certification of inspection based on United States Department of Agriculture (U.S.D.A.) standards.

The Department of Agriculture and the Hawaii Farm Bureau submitted testimony in support of this measure.

Your Committee finds that such a requirement would verify that products imported into the State comply with U.S.D.A. entry standards.

Your Committee recognizes the importance of minimizing insect pests and bacterial contaminants in agricultural products entering the United States from abroad. This measure would also assist in tracking imported agricultural products throughout the nation.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 43 and recommends that it be referred to the Committee on Health.

Signed by all members of the Committee except Representatives Takai and White.

**SCRep. 822-98      Agriculture on S.B. No. 3024**

The purpose of this bill is to establish an Animal Quarantine Special Fund to cover the costs of operating the Rabies Prevention Program.

The Department of Agriculture submitted testimony in support of this bill but expressed concerns about limiting the reserve funds to cover only accrued vacation leave, unemployment insurance, and workers' compensation.

This bill is similar to H.B. No. 2987, H.D. 1, which passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Upon consideration, your Committee has amended this bill by deleting its contents and inserting the substance of H.B. No. 2987, H.D. 1, which:

- (1) Establishes the Animal Quarantine Special Fund (Fund) to cover the costs of the quarantine of cats, dogs, and other carnivores pursuant to Chapter 142, Hawaii Revised Statutes; and
- (2) Stipulates that a reserve be appropriated and maintained in the Fund to cover contingency costs, which includes but is not limited to accrued vacation leave, unemployment insurance, and workers' compensation.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3024, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3024, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White and Halford.

**SCRep. 823-98      Health on S.B. No. 2171**

This bill requires the Department of Health (DOH) to survey all schools to locate all students at risk of experiencing emergency medical situations because of a health condition as diagnosed by a physician and to report to the Legislature twenty days to the convening of the 1999 Session.

Specifically, this bill requires the DOH to conduct a survey and submit a report to the Legislature on:

- (1) What protocols have been established to care for children in an emergency;
- (2) Who is responsible to act in an emergency situation;
- (3) Who is responsible to monitor the child's condition while the child is in the custody of the school; and
- (4) The number of students who have been identified as needing possible emergency care and the nature of each such student's medical condition.

Your Committee received testimony from the DOH, Education Department, Hawaii Government Employees Association and Hawaii Nurses' Association in support of this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2171, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 824-98 Health on S.B. No. 2346**

The purpose of this bill is to increase alcohol and drug dependence benefits and mental illness benefits under prepaid health insurance.

This bill achieves the foregoing purpose by increasing the number of outpatient visits from twelve to twenty-four each year and providing a minimum of twelve visits for mental illness benefits. The bill also deletes the requirement that hospitalization become imminent before inpatient services are exchanged for these outpatient visits. The Department of Labor and Industrial Relations is also required to conduct a study to determine whether the additional outpatient treatments result in a net decrease in job days lost, and the cost-benefit value of this relationship. The bill further requires the Department to report to the Legislature prior to the convening of the 2000 Regular Session.

Your Committee heard testimony from the Health Department, Hawaii Medical Services Association, United Self Help, Hawaii Substance Abuse Coalition, Hawaii Psychological Association, Oahu Alliance For The Mentally Ill, National Association of Social Workers, Equal Insurance Coalition and one private individual in support of this bill. Kaiser Foundation Health Plan testified against this measure.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2346, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 825-98 Health on S.B. No. 1946**

The purpose of this bill is to allow native Hawaiian healing practices to be performed by traditional native Hawaiian healers even though they may not have a license to practice medicine by exempting this type of alternative health care practice from the prohibition of the practice of medicine without a license.

The Office of Hawaiian Affairs (OHA) and Papa Ola Lokahi submitted testimony in support of this measure. The Board of Medical Examiners submitted comments.

Your Committee is concerned that the use of the term "native Hawaiian" in this bill may limit the traditional healing practices to those with at least one-half Hawaiian blood.

Your Committee believes that a more appropriate term would be "Hawaiian", as many practitioners are not of at least 50 percent Hawaiian ancestry. Furthermore, this bill requires Papa Ola Lokahi to "convene a panel comprised of representatives from native Hawaiian organizations..." Once again, your Committee is concerned about the use of the term native Hawaiian because there are few organizations which are comprised of members or who have boards comprised solely of members who are of at least 50 percent Hawaiian ancestry. Papa Ola Lokahi, the Native Hawaiian Health Care Systems, and OHA are a few of the organizations which would not qualify to be represented on the panel as their respective governing boards are not solely comprised of native Hawaiians.

Thus, your Committee has amended this measure by using the term Hawaiian rather than native Hawaiian throughout this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1946, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1946, S.D. 1, H.D. 1, and be referred to the Committee on Hawaiian Affairs.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 826-98 Health on S.B. No. 2439**

The purpose of this bill is to ensure coverage for mental health and substance abuse treatment by:

- (1) Permanently requiring insurance companies to provide benefits for the treatment of mental illness, drug abuse, or alcohol dependence under insurance policies, health plans, or service plan contracts; and
- (2) Eliminating the two episodes per lifetime limit for alcohol and drug abuse treatment insurance benefits.

The Hawaii Psychiatric Medical Association, the Hawaii Substance Abuse Coalition, the Hawaii Government Employees Association, Kahi Mohala, the Kalihi-Palama Health Center, the Hawaii Psychological Association, the Women's Addiction Treatment Center of Hawaii, the National Association of Social Workers, the Equal Insurance Coalition, the Hawaii Nurses' Association, and one individual submitted testimony in support of this measure. The Department of Health (DOH) submitted testimony in support of this measure with reservations.

The Department of Commerce and Consumer Affairs submitted testimony in support of eliminating the sunset date, but deferred to DOH on the other provision. The Hawaii Medical Services Association also supported eliminating the sunset

date, but opposed the other provision of the bill because it will unnecessarily increase costs and because the current statutory provisions are working well for Hawaii consumers. Kaiser Permanente stated that they have no objection to removing the sunset date, but strongly opposed the expansion of substance abuse benefits.

Your Committee's primary concern is to ensure that insurance coverage is available for mental health and substance abuse treatment services. However, your Committee is cognizant of potential cost increases when eliminating the cap on the number of covered episodes on alcohol and drug dependence benefits, and acknowledges that further discussion in this area is needed in subsequent hearings.

Your Committee finds that it is critical that statutory provisions for mental health and substance abuse treatment benefits do not lapse. Access to services that is impeded by an individual's lack of insurance coverage would result in increased demands for services for secondary conditions that include HIV disease, fetal alcohol syndrome, cardio-pulmonary disease, cirrhosis, injuries resulting from vehicular crashes, and other mental illness and substance abuse-related incidents.

After careful consideration, your Committee has amended this measure by:

- (1) Extending, rather than deleting, the sunset provision to the year 2002; and
- (2) Effectuating this Act on June 30, 1998, to ensure that the repeal date is extended.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2439, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2439, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 827-98 Health on S.B. No. 2847**

The purpose of this bill is to ensure coverage for mental health and substance abuse treatment by permanently requiring insurance companies to provide benefits for the treatment of mental illness, drug abuse, or alcohol dependence under insurance policies, health plans, or service plan contracts.

The Hawaii Medical Service Association, the Hawaii Substance Abuse Coalition, the Hawaii Government Employees Association, ILWU Local 142, Kahi Mohala, the Hawaii Psychological Association, the Department of Public Safety, the Department of Labor and Industrial Relations, the Department of Commerce and Consumer Affairs, the Hawaii State Teachers Association, the Oahu Alliance for the Mentally Ill, the National Association of Social Workers, the Hawaii Nurses' Association, the Equal Insurance Coalition, and one individual submitted testimony in support of this measure. Kaiser Permanente stated that they had no objection to this measure. The Department of Health submitted comments.

Your Committee's primary concern is to ensure that insurance coverage is available for mental health and substance abuse treatment services.

Your Committee finds that it is critical that statutory provisions for mental health and substance abuse treatment benefits do not lapse. Access to services that is impeded by an individual's lack of insurance coverage would result in increased demands for services for secondary conditions that include HIV disease, fetal alcohol syndrome, cardio-pulmonary disease, cirrhosis, injuries resulting from vehicular crashes, and other mental illness and substance abuse-related incidents.

After careful consideration, your Committee has amended this measure by:

- (1) Extending, rather than deleting, the sunset provision to the year 2002; and
- (2) Effectuating this Act on June 30, 1998, to ensure that the repeal date is extended.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2847, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2847, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 828-98 Health on S.B. No. 2851**

The purpose of this bill is to establish an immunization records system (system) for access by health care providers and departmental programs responsible for providing immunizations.

The Department of Health (DOH), the Hawaii Nurses' Association, and the Office of Information Practices submitted testimony in support of the measure. The Hawaii Medical Association and the Hawaii Chapter of the American Academy of Pediatricians submitted testimony in support of the intent of this measure.

Your Committee notes that this on-line registry will make immunization information readily available to health care providers, thereby improving tracking of immunizations and administering immunizations to the public in a more timely manner.



Your Committee has amended this bill by:

- (1) Changing the definition of "demographic information";
- (2) Specifying that "health care provider" is a direct provider of immunizations;
- (3) Making the age of majority the age in which individuals have control over their immunization records;
- (4) Exempting DOH employees from civil liability for damages by reason of obtaining and using information from the system for verification and validation of immunization information; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2851, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2851, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 829-98      Agriculture on S.B. No. 2769**

The purpose of this bill is to include the planning, construction, operation, and maintenance of the State irrigation water systems under the duties of the Department of Agriculture.

DOA submitted testimony in support of this measure. The Office of Hawaiian Affairs submitted testimony in opposition to this measure.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2769 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White and Halford.

**SCRep. 830-98      Agriculture on S.B. No. 2771**

The purpose of this bill is to continue the competitive pricing of milk produced in Hawaii by deleting the sunset date for provisions that allow the Board of Agriculture to adopt by rule specific formulas and criteria for determining minimum prices to be paid to milk producers.

The Department of Agriculture and the Hawaii Fresh Milk Industry testified in support of the bill.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2771 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives White and Halford.

**SCRep. 831-98      Agriculture on S.B. No. 2770**

The purpose of this bill is to clarify the law relating to measurement standards.

Specifically, this bill:

- (1) Adds a new definition of "retail";
- (2) Reclassifies certain acts prohibited under Chapter 486, Hawaii Revised Statutes, and subject to civil penalties, as criminal, petty misdemeanors in order to allow them to be handled by citation;
- (3) Authorizes the Department of Agriculture (DOA) to license service agencies to test measurement standards and measuring devices;
- (4) Authorizes DOA to adopt rules establishing procedures for evaluating the performance of licensed service agencies in testing measurement standards and measuring devices;
- (5) Clarifies that the misrepresentation of price includes situations where there is a difference between the price displayed and the price charged to the consumer; and
- (6) Makes housekeeping amendments to reflect the reorganization of the DOA's "Division of Measurement Standards" to the DOA's "Measurement Standards Branch".

DOA submitted testimony in support of the bill with one recommended amendment.

Your Committee finds that the term "knowingly" establishes a lower level of criminal state of mind (mens rea) than the term "intentionally". Your Committee believes that a lower mens rea is necessary to adequately protect the public with respect to commercial sales.

Upon consideration, your Committee has amended this bill by:

- (1) Clarifying that the acts subject to criminal sanctions are limited to those that are "knowingly" performed; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2770, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2770, S.D. 2, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representatives White and Halford.

**SCRep. 832-98      Agriculture on S.B. No. 3025**

The purpose of this bill is to provide a direct link between the people who benefit from the Milk Control Program (Program) and the financial support of the Program.

Specifically, this bill:

- (1) Establishes a Milk Control Special Fund (Fund); and
- (2) Requires that all moneys received as application fees and licenses under Chapter 157, Hawaii Revised Statutes, and any other moneys made available, be deposited into this Fund.

The Department of Agriculture submitted testimony in support of this bill but expressed concerns about limiting the reserve funds to cover only accrued vacation leave, unemployment insurance, and workers' compensation. The Hawaii Fresh Milk Industry also submitted testimony in support of this bill.

This bill is similar to H.B. No. 2988, which passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Upon consideration, your Committee has amended this bill by:

- (1) Broadening the uses of the reserve funds; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3025, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3025, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives White and Halford.

**SCRep. 833-98      Health on S.B. No. 2828**

The purpose of this bill is to repeal requirements that pharmacies possess a specific reference material and maintain records in a specific manner. This bill instead leaves the type of reference material and manner of keeping records to the discretion of the pharmacies. Currently pharmacies had to possess the latest revision of the United States Pharmacopeia National Formulary (USPNF) and keep records by books, files, or microfilm of the books or files. While the USPNF may have served its purpose in the past, more practical reference materials have become available for pharmacists. Your Committee further finds that Act 304 Session Laws of Hawaii 1997, allows and regulates electronic record keeping by pharmacies.

Your Committee received testimony from the Board of Pharmacy and Longs Drugs in support of this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2828, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 834-98      Health on S.B. No. 2845**

This bill is an administrative proposal eliminating from statute Director of Health responsibilities no longer feasible due to budget constraints or not related to public health. These include repealing part (e) of Chapter 327C-1 on the determination of death by the health director and, abolishing and removing funding for the Litter Control Program.

Your Committee heard testimony from the Health Department in support of this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2845, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 835-98 Health on S.B. No. 2862**

The purpose of this bill is to authorize an emergency appropriation by increasing the current expenditure limit for the mental health and substance abuse special funds for the Health Department. This will allow funding for community mental health services required for compliance with the stipulation and order in federal court between the state Health Department and the United States Department of Justice.

Your Committee received testimony from the Health Department, Protection And Advocacy Agency of Hawaii and Oahu Alliance For The Mentally Ill in support of this bill.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2862, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 836-98 Health on S.B. No. 3051**

The purpose of this bill is to provide an emergency appropriation to prevent the reduction or elimination of health care services in communities served by the Hawaii Health Systems Corporation.

Testifying in favor of this bill were the Hawaii Health Systems Corporation, Hawaii Government Employees Association, Office of Hawaiian Affairs, Healthcare Association of Hawaii, ILWU Local 142 and the Ka'u Grassroots Coalition to Preserve Quality Rural Health Care.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3051 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 837-98 Health on S.B. No. 2389**

The purpose of this bill is to save the lives of cardiac arrest victims by providing immunity from liability to any person who uses an automatic external defibrillator (AED) in emergency care situations after having successfully completed an appropriate training program administered by a Hawaii-licensed physician.

The Department of Health (DOH), the Hawaii Nurses' Association, the American Heart Association, and one individual submitted testimony in support of this measure. The Consumer Lawyers of Hawaii and the Board of Medical Examiners submitted comments.

Your Committee finds that Hawaii has a dismal cardiac arrest survival rate of less than three percent. Some areas on the mainland are saving the lives of more than twenty percent of their cardiac arrests, primarily because they defibrillate victims more quickly.

AEDs allow early, safe defibrillation by appropriately trained nonmedical personnel. Current regulations prohibit nonmedical personnel from using this equipment to save lives and primarily limits use of this technology to the emergency medical system. This bill will expand the use of AEDs by enabling more people, such as lifeguards, flight attendants, tour guides, and security guards, to use this life-saving device.

Your Committee has amended this measure by:

- (1) Allowing trained persons other than those persons licensed to practice medicine to use AEDs;
- (2) Clarifying who may or may not be liable in circumstances where an AED is used; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2389, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2389, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 838-98 Health on S.B. No. 2855**

The purpose of this bill is to reduce the barriers to, and expand the use of, telehealth by removing the requirement of face-to-face examinations as a prerequisite for payments from health care plans.

Supporting testimony was submitted by the Department of Health, Hawaii Medical Service Association, Hawaii Medical Association, Healthcare Association of Hawaii, the State Health Planning and Development Agency, the Tri-Isle Subarea Health Planning Council, AT&T, Hawaii Psychological Association, Oceanic Communications, GTE Hawaiian Telephone

Company Incorporated, and Kaiser Permanente. The Hawaii Nurses' Association submitted testimony in support of the intent of this bill. The Board of Medical Examiners submitted comments on this bill.

Your Committee recognizes the benefits of telehealth in providing a cost-effective, quality health care option to Hawaii residents, particularly to those residents who are unable to readily access health facilities because of distance. Your Committee believes that telehealth should provide patients with expanded access to their primary care physicians, specialists, and other health professionals, regardless of whether health care services are easily accessible or not.

Your Committee has amended this bill by:

- (1) Amending the definition of "telehealth" to mean the use of telecommunications services, as defined in section 269-1, Hawaii Revised Statutes, and enhanced services to deliver health and health care services and information to parties separated by distance;
- (2) Changing "medical practices and standards" to "health care practices and standards";
- (3) Making providers a party in determining the terms and conditions of the accident and sickness plan; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2855, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2855, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 839-98 Health on H.C.R. No. 59**

The purpose of this concurrent resolution is to reduce or eliminate the prevalence of drug and alcohol abuse among teenagers by requesting a study to determine the feasibility of establishing a residential treatment center for adolescents in Hilo, Hawaii.

The Office of Hawaiian Affairs and numerous individuals submitted testimony in support of this measure. The Department of Health opposed this measure.

Your Committee finds that a study to determine the feasibility of a residential treatment facility for at-risk adolescents in Hilo would be a positive step towards increasing the safety and well-being of at-risk teens and their communities.

Your Committee also acknowledges that Hilo is not the only community with this problem, and this study will accumulate the data needed to establish an effective and efficient treatment center that would benefit the entire State.

Your Committee has amended this measure by transmitting certified copies of this concurrent resolution to:

- (1) The Executive Director of the Office of Youth Services; and
- (2) The principals of all public schools on the island of Hawaii.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 59, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.C.R. No. 59, H.D. 1.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 840-98 Judiciary on S.B. No. 705**

The purpose of this bill is to authorize the exemption from civil service laws the existing civil service law clerk positions of the Judiciary and one secretary position for the Judicial Council.

The Judiciary submitted testimony in support of this bill.

Your Committee finds that law clerks should not be subject to the civil service laws because of the short duration of their employment and because of the unique relationship between a law clerk and judge. As most law clerks are employed for one to two years, there is a high turnover rate that requires the ability for a judge to hire them quickly. The civil service process, however, may take several months to complete. Also, law clerks have a close working relationship with judges, are expected to maintain discretion and confidentiality, and often bear an increased workload.

Your Committee further finds that the secretary of the Judicial Council should be exempt from civil service laws because the relationship between the Judicial Council secretary and the Chief Justice of the Hawaii Supreme Court is of a highly confidential nature.

Your Committee has amended this bill by making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 705, S.D. 2, as amended herein, and recommends that it

pass Second Reading in the form attached hereto as S.B. No. 705, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor and Yoshinaga.

**SCRep. 841-98      Judiciary on S.B. No. 721**

The purpose of this bill is to increase certain court fees. The Judiciary submitted testimony in support of this bill proposing an elimination or reduction of some of this bill's fee increases and a raise in other fees not covered by this bill. The Hawaii State Bar Association submitted testimony in opposition to this bill.

Some of these court fees have not been raised in over twenty years. In fact, when compared with other jurisdictions, Hawaii's court fees are among the lowest. In light of these considerations, your Committee finds that it is appropriate to increase certain court filing fees. These changes will provide enhanced revenues to the State general fund.

Your Committee has considered the impact that raising court fees would have on the public's access to justice. The Hawaii State Bar Association is concerned that filing fees, representing the "price of admission" to the court system, should not be so high that only the wealthy enjoy an access to the judicial process. Your Committee feels, however, that the proposed increases in this bill are reasonable and should preserve equal access to justice.

Your Committee has amended this bill by:

- (1) Increasing filing fees for appeals to the circuit court, transfer from circuit court to district court, trust actions, guardianship proceedings, family court adoptions and guardianships, demands for jury trials, notice of appeal from the circuit court, supreme court costs, and foreign judgments; and
- (2) Reducing the proposed increases to fees for circuit court civil actions and probate actions.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 721, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 721, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor and Yoshinaga.  
(Representative Pendleton voted no.)

**SCRep. 842-98      Judiciary on S.B. No. 1273**

The purpose of this bill is to allow victims of sexual assault to require the person convicted of the sexual assault to be tested for the human immunodeficiency virus (HIV).

The Department of the Attorney General, Department of Public Safety, Department of Health, Hawaii State Commission on the Status of Women, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, Kauai Police Department, Family Crisis Shelter, Inc., Domestic Violence Clearinghouse and Legal Hotline, and Sex Abuse Treatment Center testified in support of this bill. The American Civil Liberties Union and Governor's Committee on HIV/AIDS testified in opposition to this bill. The Office of the Public Defender and the AIDS Community Care Team commented upon this bill.

Your Committee has amended this bill by removing its contents and replacing it with the contents of H.B. 1595, H.D. 1. Your Committee, however, has retained that portion of the Senate version requiring the victim to sign a notice of HIV status disclosure advising the victim of the confidentiality provisions regarding HIV test results and the penalties for unlawful disclosure.

This bill, as amended by your Committee, will require a person to be tested for HIV after being charged with a sexual offense rather than after conviction. Since early detection and treatment provides significant benefits for those infected with HIV, requiring a victim to wait several months or years for a conviction would negate any health benefit provided by this treatment.

Your Committee has also removed section five of S.B. 1273, S.D. 1, which mandates that federal funds received pursuant to this Act be used for direct services to victims. Such language contradicts the requirements of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and the responsibilities of the Governor's Committee on Crime.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1273, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1273, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor and Yoshinaga.

**SCRep. 843-98      Judiciary on S.B. No. 2254**

The purpose of this bill is to allow the court to order, as a condition of probation, that persons convicted of prostitution successfully complete a course of prostitution intervention classes.

The Office of the Public Defender, Hawaii State Commission on the Status of Women, Honolulu Police Department, and several concerned individuals and organizations testified in support of this bill.

Your Committee finds that prostitution is as much a problem of physical and sexual abuse, domestic violence, mental health, and substance abuse as it is an offense against public morals. Incarcerating those convicted of prostitution may not be the best solution to some of these problems. Therefore, allowing those convicted of prostitution to receive intervention as a condition of probation is an important effort to address the problem of prostitution.

However, your Committee is concerned that this bill might allow a person convicted of prostitution to continue to receive prostitution intervention classes in lieu of incarceration. For this reason, your Committee has amended this bill by allowing for probation only on the first offense.

Your Committee has also made technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2254, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2254, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor and Yoshinaga.

**SCRep. 844-98      Judiciary on S.B. No. 2402**

The purpose of this bill is to delete the word "recent" from the temporary restraining order law, require immediate incarceration upon conviction, impose fines for violating temporary restraining orders, and change the phrase "cooling off period" to "period of safety."

The Hawaii State Commission on the Status of Women, Domestic Violence Clearinghouse and Legal Hotline, Hawaii Lawyers Care, Child & Family Service, Family Crisis Shelter, Inc., Parents and Children Together, Hawaii Rifle Association, Hawaii Catholic Conference, and several concerned individuals testified in support of this bill. The Department of the Prosecuting Attorney of the City and County of Honolulu, testified in support of the deletion of the word "recent" and the requirement of immediate incarceration, but opposed the mandatory imposition of fines and change of "cooling off period" to "period of safety." The Judiciary and Office of the Public Defender commented on this bill.

Your Committee has amended this bill by removing its contents and replacing it with the contents of H.B. 2666, H.D. 1. Your Committee has also included the violation of section 586-11, Hawaii Revised Statutes, to the provision of this bill allowing for an extended term of probation.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2402, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2402, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Menor, Yoshinaga and Thielen.

**SCRep. 845-98      Energy and Environmental Protection on S.B. No. 2970**

The purpose of this bill is to give jurisdiction over noise at the Convention Center to the county Liquor Commission, for noise emanating from licensed premises, and the Department of Health (DOH), for all other noise.

Supportive testimony was submitted by the Waikiki Area Action Association, Neighbors of the Ala Wai, Ala Moana Residents Advisory Council, and the Association of Apartment Owners Atkinson Plaza. The DOH also indicated that it would support this measure provided that the department's noise program is not eliminated by the Governor's Executive Budget proposal.

The Hawaii Restaurant Association provided testimony in opposition to this measure, suggesting that the DOH be given sole authority to regulate noise at the convention center.

Your Committee has amended this bill by deleting its contents and replacing it with language from H.B. 3391 H.D. 1 which:

- (1) Requires the DOH to adopt rules to regulate noise arising from any or all types of events at the convention center;
- (2) Requires the DOH to establish fines for and enforce any violation of its noise rules;
- (3) Specifies that Section 342F-20, HRS, shall govern in the event of any conflicts in state or county noise regulations;
- (4) Clarifies in Section 46-17, HRS, that county rules or ordinances shall not be effective when they are inconsistent with any noise permit granted by the DOH; and
- (5) Extends Chapter 206X, HRS, indefinitely by repealing its "sunset" date of June 30, 1998.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2970, S.D. 1, as amended

herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2970, S.D. 1, H.D. 1, and be referred to the Committee on Tourism.

Signed by all members of the Committee except Representatives Garcia, Kanoho and Thielen.

**SCRep. 846-98 Energy and Environmental Protection on S.B. No. 3156**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist manufacturing, processing, and industrial enterprises on the island of Hawaii.

Specifically, this bill authorizes the issuance of \$2,500,000 in special purpose revenue bonds to assist manufacturing enterprises, \$2,500,000 for processing enterprises, and \$20,000,000 for the industrial enterprise of the establishment of a cogeneration facility by Hui 'Enekinia Hawai'i.

This bill also extends the lapsing date, from June 30, 1998, to June 30, 2003, of special purpose revenue bonds for Hawaiian Entrepreneurs' processing enterprise authorized in Act 262, Session Laws of Hawaii 1993, and Hui 'Enekinia Hawai'i's industrial enterprise in Act 263, Session Laws of Hawaii 1993.

Hui 'Enekinia Hawai'i submitted testimony in support of this measure.

Testimony revealed that the title of the bill is not broad enough to encompass all of its contents. The bill clearly authorizes the issuance of special purpose revenue bonds for manufacturing, processing, and industrial enterprises. However, the bill's title includes only processing and industrial enterprises.

Testimony submitted by the Department of Budget and Finance also indicated that this bill fails to identify and describe the projects to be financed.

Therefore, your Committee has amended this bill by:

- (1) Deleting all references to manufacturing enterprises since the bill's title includes only processing and industrial enterprises;
- (2) Authorizing the issuance of \$5,000,000 in special purpose revenue bonds for Hawaiian Entrepreneurs' processing enterprise, thereby conforming the language to the original intent of Act 262, Session Laws of Hawaii 1993; and
- (3) Making technical, nonsubstantive amendments for the purpose of clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3156, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3156, S.D. 2, H.D. 1, and be referred to the Committee on Economic Development and Business Concerns.

Signed by all members of the Committee except Representatives Garcia, Kanoho and Thielen.

**SCRep. 847-98 Human Services and Housing on S.B. No. 2621**

The purpose of this bill is to generate a comprehensive effort to facilitate the transition of public assistance recipients from dependence to self-sufficiency. It is the intent of this bill to establish policies that eliminate employment disincentives, enhance work readiness, and promote the creation of new job opportunities by government, community organizations and private business.

The National Association of Social Workers, the ILWU Local 142, the Welfare and Employment Rights Coalition (WERC), the Hawaii Area Program of the American Friends Service Committee, the Honolulu Community Action Program, Inc. and the Office of Hawaiian Affairs submitted testimony in support of this measure. The Department of Labor and Industrial Relations submitted testimony in support of the intent of this measure. The Department of Human Services submitted testimony opposing this measure.

Your Committee finds and continues to emphasize the need for a comprehensive effort to transition recipients towards self-sufficiency. Your Committee further finds that scarce resources limit the department of human services' ability to conduct various studies or to develop programs of this nature at this time, therefore, your Committee has amended this measure by:

- (1) Deleting the master plan; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2621, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2621, S.D. 2, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representative Ward.

**SCRep. 848-98 Human Services and Housing and Health on S.B. No. 2340**

The purpose of this bill is to set standards of qualification, education, and experience for those persons who seek to represent themselves to the public as marriage and family therapists by adding a new chapter that regulates marriage and family therapists.

The National Association of Social Workers, the Hawaii Association for Marriage and Family Therapists, the Hawaii Nurses' Association, and several individuals submitted testimony in support of this measure. The Hawaii Psychological Association submitted testimony in support of the intent of this measure. The Board of Psychology and the Department of Budget and Finance opposed this measure. The Department of Commerce and Consumer Affairs (DCCA) submitted comments.

This bill would provide the citizens of Hawaii the same protection and assurances provided to the residents of the other forty states that currently license marriage and family therapists. It would offer families security that the marriage and family therapist whom they choose to assist through the most difficult of domestic situations has the necessary training, expertise, and experience to competently treat a broad range of mental, emotional, and family problems.

Your Committees find that recent developments in the effort to protect children, including the *Felix v. Cayetano* Consent Decree, and the need to reduce child abuse raise demands for wider application of therapy for the whole family unit. Regulating marriage and family therapists will allow insurance providers to reimburse users of this services while assuring quality of service.

Your Committees further find that licensed registered nurses and other providers provide, in varied instances, many of the services defined and described as the practice of marriage and family therapy. Furthermore, some registered nurses and other providers who are practicing within their licensure and scope of practice have encountered problems with the Regulated Industries and Complaints Office (RICO) of DCCA when they have advertised their services. It is not the intent of your Committees to prevent the legitimate practice or advertising of services provided by licensed and qualified registered nurses or other providers of marriage and family care and services.

Your Committees have amended this measure by:

- (1) Deleting references to the issue of "description" of services to ensure that registered nurses and other providers of marriage and family care and services are able to continue to advertise and describe their services without being investigated by RICO for the use of such descriptions; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2340, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2340, S.D. 2, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committees except Representative Ward.  
(Representative Stegmaier voted no.)

**SCRep. 849-98 Health on S.B. No. 3227**

The purpose of this bill is to redistribute funds for children's mental health services in compliance with the *Felix v. Waihee* Consent Decree for mental health services for children under five years of age.

Testimony in favor of this bill was received from numerous agencies including the Hawaii Medical Association, Kapiolani Medical Center for Women and Children, Office of Hawaiian Affairs, Maui Family Support Services, Hawaii Family Support Center, Hawaii Early Intervention Association, IMUA Rehab and Catholic Charities of the Diocese of Hawaii. Several private citizens also supported this measure.

The Budget and Finance Department and Health Department testified against this bill.

Your Committee recognizes the importance and significance of children's mental health services and the need for early intervention for children from birth to age five. Children in this age group constitute fifteen percent of the members covered by the *Felix v. Waihee* Consent Decree.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3227, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 850-98 Energy and Environmental Protection on S.B. No. 2229**

The purpose of this bill is to create a long-term supplemental funding source for endangered species and youth conservation programs to be funded from the sale of special conservation license plates, as well as grants, and private contributions.

Testimony in support of this bill was submitted by the Chairperson of the Board of Land and Natural Resources through the Department of Land and Natural Resources (DLNR), Hawaii Audubon Society, Hawaii's Thousand Friends, and Rescue Hawaii.



Your Committee has amended this bill consistent with the testimony of the Hawaii Audubon Society, to ensure that monies from the sale of conservation license plates accrue to the Endangered Species Trust Fund under section 195D-31 of the Hawaii Revised Statutes. Your Committee has also adopted the amendment suggested by Hawaii's Thousand Friends that corrects an apparent conflict in the the language of the bill. The amended bill provides that there will be no refunds of conservation license plate fees except in the case where the license plate program will not be implemented because there are less than five hundred applications for conservation license plates. Finally, your Committee has removed language providing for an appropriation of start-up funds in response to a suggestion by the DLNR.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2229, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2229, S.D. 2, H.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Representatives Garcia, Kanoho and Thielen.

**SCRep. 851-98 Energy and Environmental Protection on S.B. No. 1559**

The purpose of this bill is to protect the public, especially children, from the adverse effects of lead exposure by establishing a lead abatement program within the Department of Health (DOH).

This bill would authorize DOH to, among other things:

- (1) Establish lead hazard exposure standards for the State;
- (2) Establish work practice standards and notification requirements for lead-based abatement activities in dwellings and child-occupied facilities;
- (3) Inspect abatement projects;
- (4) Review lead abatement plans;
- (5) Develop rules controlling and prohibiting lead-based paint hazards and regulating lead abatement;
- (6) Enforce any violations of these provisions;
- (7) Conduct research programs relating to lead hazards; and
- (8) Conduct statewide educational and training programs on lead hazard prevention, control, and abatement.

DOH testified in strong support of this bill. The Office of Information Practices offered comments.

Your Committee has amended this bill by:

- (1) Modifying the language relating to the protection of confidential information so that it is consistent with the provisions of the Uniform Information Practices Act; and
- (2) Making technical, nonsubstantive revisions for the purposes of consistency.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1559, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1559, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Garcia, Kanoho and Thielen.

**SCRep. 852-98 Human Services and Housing and Health on S.B. No. 2987**

The purpose of this bill is to protect children from harm by reforming the Child Protective Services (CPS) system.

The Department of Human Services (DHS), the National Association of Social Workers, the Kapiolani Child Protection Center, the Child Welfare Services State Advisory Council, and one individual submitted testimony in support of this measure. The Hawaii State Foster Parents Association submitted testimony in support of the intent of this measure. The Judiciary and one individual submitted comments.

This bill will strengthen the CPS system and improve the chances that children will be protected while their families receive the services necessary to improve their home environment.

Your Committees find that a number of other provisions would also serve to assure that child safety is the priority for the CPS system and improve the communication between DHS, families, professionals, social and public agencies, and the community.

Thus, after careful consideration, your Committees have amended this measure by:

- (1) Creating a review panel within DHS to review all cases of serious abuse prior to reunification;

- (2) Ensuring that children entering foster care for the first time will receive the kind of assessment that is necessary to identify their medical, mental health, and developmental needs;
- (3) Requiring reports pertaining to cases pending before the Family Court (Court) to be submitted to the Court through DHS;
- (4) Requiring police to submit reports, substantiated or not, to CPS;
- (5) Incorporating new language for medical treatment, health assessment, and disclosure of records into Chapter 587, Hawaii Revised Statutes (HRS), instead of Chapter 346, HRS;
- (6) Amending sections 587-24(e) and 587-53(a), HRS, to be consistent with proposed changes that would allow social workers seventy-two hours to provide their report to the Court after the filing of temporary foster custody petitions;
- (7) Adding the definition of "aggravated circumstances" and making various technical amendments to the Child Protective Act to comply with the requirements in federal law P.L. 105-89; and
- (8) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2987, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2987, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representative Ward.

**SCRep. 853-98 Health on S.B. No. 2861**

The purpose of this bill is to appropriate emergency funding to maintain emergency ambulance services within the County of Maui, emergency and urgent care services at the Waianae Coast Comprehensive Health Center (WCCHC), and emergency medical services for the residents of the County of Hawaii by the Hawaii County Fire Department.

The Department of Health (DOH) testified in support of funding Maui County ambulance services, however, opposed the other provisions of this bill.

Your Committee finds that the primary purpose of this bill is to appropriate funds for the County of Maui ambulance services in response to a bid proposal by its current ambulance service contractor who, in its previous bid in 1994, overlooked the State general excise tax. Subsequently, the \$292,180 difference is required to maintain current levels of emergency service and sustain the health and welfare of Maui County communities.

Regarding the other provisions of this bill, your Committee finds that the WCCHC shortfall has since been addressed by the Governor and is no longer appropriate in this bill. Furthermore, DOH testified that a resolution to the County of Hawaii Fire Department budgetary shortfall is being discussed for the current budget. As the outcome to this discussion is uncertain, your Committee finds that the appropriation contained in this bill is premature.

The title of this bill specifies that this is an emergency appropriation that only the Governor has the authority to determine. Thus, your Committee finds that this measure may be in jeopardy if the provisions for WCCHC and the Hawaii County Fire Department are not deleted.

Upon careful consideration, your Committee has amended this bill by:

- (1) Deleting the appropriation for WCCHC and the appropriation for the Hawaii County Fire Department; and
- (2) Making technical nonsubstantive revisions for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2861, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2861, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Stegmaier.

**SCRep. 854-98 Economic Development and Business Concerns on S.B. No. 2803**

The purpose of this bill is to assist small businesses in the State by establishing the Hawaii Small Business Regulatory Flexibility Act, which would:

- (1) Require administrative agencies to analyze the impacts of regulations that affect small businesses with fewer than 200 employees; and
- (2) Afford small businesses an opportunity for early input into the rulemaking process.

The Hawaii Business League, the American Institute of Architects Hawaii State Council, the Hawaii Association of Realtors, the Hawaii Restaurant Association, and an individual testified in support of the measure. Supporting testimony was also submitted by the Department of Business, Economic Development, and Tourism, the U.S. Small Business

Administration, the National Federation of Independent Business, and the Maui Chamber of Commerce. The Department of Health, Hawaii's Thousand Friends, and the Sierra Club, Hawaii Chapter testified in opposition to this bill. Comments were submitted by the Department of Land and Natural Resources and an individual.

Your Committee notes that this bill is similar to H.B. No. 2792, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Upon further consideration, your Committee has amended this bill by:

- (1) Adding a purpose section;
- (2) Requiring agencies to consider other methods of compliance for small businesses and to prepare a small business impact statement for proposed rules affecting small business;
- (3) Deleting the requirement that the Advisory Committee on Small Business (Advisory Committee) advise all state agencies within a department regarding rules affecting small business activities;
- (4) Deleting the requirement that members of the Advisory Committee serve for a period of no more than two years;
- (5) Changing the consultation process for proposed rules;
- (6) Specifying that the members of the Small Business Regulatory Review Board (Review Board) be appointed to staggered three-year terms;
- (7) Changing the criteria for which small businesses may petition for regulatory review;
- (8) Authorizing, rather than requiring, agencies to seek advice and counsel regarding petition from the appropriate Advisory Committee;
- (9) Establishing a Small Business Defender within the Office of Ombudsman;
- (10) Repealing the sunset of the bill;
- (11) Adding new functions, powers, and duties to the Ombudsman with regard to small business;
- (12) Requiring that any regulatory power or function that is not funded through the budgetary process shall be transferred to a funded state agency or program, or the regulatory power and function shall be repealed;
- (13) Including a severability clause; and
- (14) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2803, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2803, S.D. 2, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 855-98      Agriculture on S.B. No. 2773**

The purpose of this bill is to authorize the Department of Agriculture (DOA) to import and maintain in the State a live, sterile male snake for research and to train snake detector dogs.

DOA, the Department of Land and Natural Resources, the Hawaii Farm Bureau, and The Nature Conservancy of Hawaii submitted testimony in support of this measure.

Your Committee believes that this bill is necessary to maintain the proficiency of the dog detection unit's ability to detect snakes entering the State. The few training aids currently available to the unit necessitate that the DOA be allowed to import and maintain a live, sterile male snake to ensure the efficacy of the dogs' ability to detect snakes.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2773, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives White and Halford.

**SCRep. 856-98      Human Services and Housing and Health on H.C.R. No. 50**

The purpose of this concurrent resolution is to create a new methodology for distribution of QUEST funds based on patient health risk characteristics.

Queen's Hawaii Care submitted testimony in support of the intent of this measure. The Department of Human Services and the Hawaii Medical Service Association (HMSA) submitted testimony opposing this measure.

Your Committees find that utilizing a new methodology may allow a more equal distribution of funds to the QUEST health plans and providers, which in turn will improve compensation for enrollees who are in the most need of services. Your Committees further find that while it may not be feasible at this time for the Department of Human Services to develop a new methodology, it is necessary for the Department to explore and evaluate the risk adjusted methodology, and therefore has amended this measure by:

- (1) Reflecting this change in the title; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 50, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 50, H.D. 1.

Signed by all members of the Committees except Representative Ward.

**SCRep. 857-98 Ocean Recreation and Marine Resources on H.C.R. No. 69**

The purpose of this concurrent resolution is to request the planning and implementation of beach restoration and nourishment projects in Hawaii.

Testimony in support of this measure was received from the Department of Land and Natural Resources, the Office of Planning, and an individual.

Your Committee finds that coastal erosion is a significant problem facing Hawaii that requires close cooperation of government agencies in order to develop and implement solutions. Involvement of the military is also an important component of this effort.

Your Committee has amended this concurrent resolution by including:

- (1) The Department of the Interior Minerals Management Service in developing procedures to deal with shoreline management problems, and to consolidate specific beach restoration and nourishment projects; and
- (2) An additional WHEREAS clause to state Hawaii Coastal Zone Management Program's direct involvement in research and planning efforts to identify coastal erosion problems and prepare solutions for these problems.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 69, as amended herein, and recommends that it be referred to the Committee on Public Safety and Military Affairs, in the form attached hereto as H.C.R. No. 69, H.D. 1.

Signed by all members of the Committee except Representatives Yoshinaga, Meyer and Thielen.

**SCRep. 858-98 Energy and Environmental Protection on H.C.R. No. 34**

The purpose of this concurrent resolution is to request the Federal Trade Commission (FTC) to amend the Agreement Containing Consent Order in the matter of Shell Oil Company and Texaco Inc. (File No. 971-0026) that mandates the divestiture of retail assets of Shell Oil Company or Texaco Inc. on the island of Oahu.

This measure was supported by Shell Auto Care, Inc.; Duke's Enterprises, Inc.; Makiki Shell; Kamuela Shell Service, Inc.; Eddie's Car Assist Center, Inc.; Corey's Kailua Texaco; Andy's Texaco Service, Inc.; Aloha Shell Service; Ilima Shell; Yunnie's Shell; Island Service Station; Mike's Vineyard Shell; Fairway Service Station; Big Save, Inc.; Jimmy's & Sons Texaco; Rick's Temple Valley Texaco; Kaimuki Shell Service; Lahaina Texaco, Inc; Waianae Shell; Kahuku Texaco; Tommy's Shell Service; the Texaco and Shell retail gasoline dealers in Hawaii; and the Hawaii Bankers Association. The Hawaii Automotive Repair & Gasoline Dealers Association also expressed its concern for the Shell and Texaco dealers in Hawaii.

The State Attorney General (AG) submitted testimony in opposition to this measure. The Department of Business, Economic Development, and Tourism stated its intent to continue to work with the AG's office to achieve fair competition among Hawaii's energy companies.

The AG's testimony revealed that the Shell and Texaco merger presumptively violates federal and state antitrust laws according to the 1992 Merger Guidelines of the U.S. Department of Justice and the FTC. As evidence of Hawaii's highly concentrated gasoline market, the AG noted that although the price of crude oil has dropped on the mainland, Hawaii has not similarly experienced a drop in the price of oil.

According to Shell and Texaco dealers, the State has failed to produce any competitive impact analysis that supports the State's position that the proposed joint venture would lead to a substantial lessening of competition in the Oahu retail gasoline market. Furthermore, the Shell and Texaco dealers stated that the divestiture would result in loss of brand name and profit margin.

Your Committee finds that further evaluation of the Agreement Containing Consent Order is necessary to determine the impact the divestiture would have on Hawaii's consumers. Therefore, your Committee has amended this measure by:

- (1) Including language recognizing that Hawaii's Shell and Texaco retail service station dealers as well as the people of Hawaii live in a unique island economy and may realize uncertain economic conditions and possible economic hardships under the terms of the Agreement Containing Consent Order;
- (2) Requesting the FTC to re-evaluate, rather than amend, the Agreement Containing Consent Order, taking into consideration the impact the divestiture will have on the Hawaii consumer;
- (3) Changing the title to read: "REQUESTING THE FEDERAL TRADE COMMISSION TO RE-EVALUATE THE AGREEMENT CONTAINING CONSENT ORDER IN THE MATTER OF SHELL OIL COMPANY AND TEXACO INC. (FILE NO. 971-0026)"; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 34, as amended herein, and recommends that it be referred to the Committee on Consumer Protection and Commerce, in the form attached hereto as H.C.R. No. 34, H.D. 1.

Signed by all members of the Committee except Representatives Goodenow, Hamakawa, Kanoho and Morihara.

**SCRep. 859-98 Health on H.C.R. No. 68**

This resolution requests the Legislative Auditor to do a study of Professional Nurse Midwives, the impact of regulation and how they should be regulated. This study is necessary to examine the impact of professional registered midwives and home deliveries on the health care system and quality of prenatal care in Hawaii. Over half of the states in the United States currently have a mechanism for licensing midwives.

Your Committee heard testimony from the Health Department, the Midwives Alliance of Hawaii and several private individuals in support of this resolution.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 68 and recommends that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 860-98 Education and Higher Education on H.C.R. No. 55**

The purpose of this concurrent resolution is to request that the Department of Education (DOE) and the University of Hawaii (UH) prepare reports on the status of efforts to promote fairness and equity for Filipino-Americans.

Your Committees received testimony on this concurrent resolution from DOE, UH, the Hawaii Pamantasan Council, the Hawaii Civil Rights Commission, the Filipino Coalition for Solidarity, Inc., and the Japanese American Citizens League.

Your Committee has amended this concurrent resolution by:

- (1) Providing that the report by UH is to include recommendations on programs and policies to increase the number of Filipino faculty and administrators; and
- (2) Urging UH to encourage Filipino students at all campuses through such efforts as outreach.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 55, as amended herein, and recommend that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 55, H.D. 1.

Signed by all members of the Committees except Representatives Santiago, Takamine, Takumi, Tarnas, Yonamine and McDermott.

**SCRep. 861-98 Education and Higher Education on H.R. No. 19**

The purpose of this resolution is to request that the Department of Education (DOE) and the University of Hawaii (UH) prepare reports on the status of efforts to promote fairness and equity for Filipino-Americans.

Your Committees received testimony on this resolution from DOE, UH, the Hawaii Pamantasan Council, the Hawaii Civil Rights Commission, the Filipino Coalition for Solidarity, Inc., and the Japanese American Citizens League.

Your Committee has amended this resolution by:

- (1) Providing that the report by UH is to include recommendations on programs and policies to increase the number of Filipino faculty and administrators; and
- (2) Urging UH to encourage Filipino students at all campuses through such efforts as outreach.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 19, as amended herein, and recommend that it be referred to the Committee on Judiciary in the form attached hereto as H.R. No. 19, H.D. 1.

Signed by all members of the Committees except Representatives Santiago, Takamine, Takumi, Tarnas, Yonamine and McDermott.

**SCRep. 862-98 Education on H.C.R. No. 33**

The purpose of this concurrent resolution is to urge the Board of Education (BOE) to eliminate social promotions and to promote students based solely on academic achievement.

While in support of the intent of the measure, BOE testified that it already has a policy prohibiting social promotion. Furthermore, BOE policy requires the Department of Education (DOE) to establish a system of student promotion that is based on academic performance and successful student progress toward identified benchmarks specified in the Hawaii Content and Performance Standards.

In addition, BOE testified that the current contract with the Hawaii State Teachers Association prohibits a teacher's evaluation of a student to be changed. Although administrators are allowed to make a separate evaluation of a student, they rarely do so.

Your Committee has amended the concurrent resolution by:

- (1) Adding a WHEREAS clause recognizing that BOE has established promotion policies based on performance standards;
- (2) Adding a WHEREAS clause describing the roles of teachers and administrators in promoting students;
- (3) Revising the BE IT RESOLVED clause to urge DOE, teachers, and administrators to implement the BOE promotion policy rather than to urge BOE to make promotions based solely on academic performance;
- (4) Revising the title to conform with revisions made in the body; and
- (5) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 33, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 33, H.D. 1.

Signed by all members of the Committee except Representatives Arakaki, Santiago, Takamine, Tarnas and Yonamine.

**SCRep. 863-98 Economic Development and Business Concerns on S.B. No. 2800**

The purpose of this bill is to authorize the Department of Business, Economic Development, and Tourism (DBEDT) to issue economic development grants to new and emerging industries with good growth potential or prospects in jobs, exports, and new products that contribute to the economic diversification of the state.

Testimony in support of this measure was received from DBEDT, the Office of Hawaiian Affairs, and the Democratic Party of Hawaii.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2800, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 864-98 Economic Development and Business Concerns on S.B. No. 2802**

The purpose of this bill is to improve government services to businesses and prospective businesses in Hawaii by:

- (1) Renaming the Business Permits Service Center, the Business Action Center (Center);
- (2) Adding additional duties and activities to the Center; and
- (3) Eliminating obsolete functions of the Center.

Supporting testimony was received from the Department of Business, Economic Development, and Tourism, the Kona-Kohala Chamber of Commerce, and the Hawaii Restaurant Association.

Your Committee notes that this bill is similar to H.B. No. 2791, H.D. 1, which passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Your Committee has amended this bill by making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2802, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2802, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 865-98 Economic Development and Business Concerns on S.B. No. 3142**

The purpose of this bill is to allow authorized commercial mobile radio service providers to recover the capital costs and associated operating expenses directly related to providing wireless enhanced 911 service through a monthly surcharge imposed on its subscribers.

Testimony in support of this measure was received from the Public Utilities Commission, the Honolulu Cellular Telephone Company, and the Hawaii County Police Department. The Consumer Advocate testified in opposition to this bill.

Your Committee has amended this bill by sunseting the Act three years from its effectuation date.

Your Committee notes that this bill is similar to H.B. No. 3148, which passed out of this Committee, but was held in the Committee on Consumer Protection. Your Committee has passed this bill out of Committee for the purposes of furthering discussion and allowing the Chairman of the Consumer Protection Committee the opportunity to revisit this matter.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3142, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3142, S.D. 1, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

**SCRep. 866-98 Economic Development and Business Concerns on S.B. No. 3007**

The purpose of this bill is to limit the use or creation of business development corporations (BDCs) under chapter 420, Hawaii Revised Statutes (HRS), after December 31, 1997.

Wallace Theaters submitted testimony in support of this measure. The Department of Taxation, the Tax Foundation of Hawaii, and an individual provided comments regarding this measure.

Your Committee finds that Chapter 420, HRS, became law by Act 288 in 1957 and that the first BDC was incorporated on June 26, 1968. That corporation was dissolved by the Director of the Department of Commerce and Consumer Affairs (DCCA) for failure to do business within two years of incorporation as required by statute. During the next 25 years thereafter, only one BDC was formed and operated pursuant to Chapter 420, HRS. Since 1995 to date, at least an additional 33 BDCs have been organized.

In 1996, the law was amended by deleting the requirement of an annual review of BDCs by the banking commissioner. As a result, the potential for abuse of Chapter 420, HRS, by corporations that are no longer subject to review regarding their compliance with the statutory purpose of BDCs, appears to have increased.

Your Committee feels that there exists a lack of oversight regarding operating BDCs. As a result, this may contribute to misinterpretation and abuse of the tax exemption benefit provided by Chapter 420, HRS. Further, the law, in present form, could lead to the continued proliferation of BDCs and, as a result, the loss of tax revenues.

Your Committee feels that BDCs are a business development issue. Further, your Committee feels that the DBEDT has the expertise and vested interest in overseeing and utilizing BDCs as an economic development tool. Additionally, your Committee feels that there is a need for an oversight authority that will:

- (1) Actively review existing BDCs;
- (2) Determine if the BDCs are in compliance with the purposes and intent of Chapter 420, HRS; and
- (3) Order the corporation to comply or be dissolved if it is not in compliance.

Your Committee has amended this measure by deleting its substance and inserting provisions to:

- (1) Authorize the Director of DBEDT to have oversight authority regarding the operation of BDCs; and
- (2) Establish a two-year moratorium on the formation of new BDCs.

Your Committee has also amended this bill by inserting language to state that existing BDCs will not be affected by the moratorium.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3007, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3007, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 867-98      Transportation on S.B. No. 2556**

The purpose of this bill, as received by your Committee on Transportation, is to assist the police in locating and recovering stolen vehicles and stolen vehicle components.

Your Committee is aware that many vehicles, as well as vehicle parts, are stolen and not recovered each year. Your Committee finds that police are limited in their investigations to locate and establish rightful ownership of suspected stolen vehicles and vehicle parts.

The proposed bill authorizes designated police officers to inspect vehicles and identifiable vehicle components on the premises of registered motor vehicle repair dealers, and persons engaged in buying and selling used vehicle parts, or wrecking, salvaging, or dismantling motor vehicles for the purpose of selling parts. The inspections are to be limited to the title or registration of vehicles to establish the rightful ownership or possession of the vehicle or identifiable vehicle component, and to be conducted without undue interference with business operations.

Testimony in support of this bill was heard from the Police Department, City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2556, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 868-98      Transportation on S.B. No. 2099**

The purpose of this bill, as received by your Committee on Transportation, is to ensure greater safety for children riding as passengers in motor vehicles along public highways.

Your Committee finds that children between the ages of three and four, because of their sizes and physical developments, are safer in car seats than in seat belts. Your Committee also finds that Hawaii's law on child passenger restraints permits children between the ages of three and four to be restrained with seat belts. Your Committee further finds that Hawaii's law does not conform with the National Highway Traffic Safety Administration (NHTSA) recommendations.

The proposed measure increases the age of children required to be restrained in car seats to age four, rather than permitting the use of seat belts after age three.

Testimonies in support of this bill were received from the Police Department, city and county of Honolulu, the Department of Health, the Hawaii Medical Association, Mothers Against Drunk Driving, Keiki Injury Prevention Coalition, and a physician. The Commission on Persons with Disabilities supported this measure, but suggested an amendment to read: "if the child is under four years of age or less than 40 pounds in weight, the person operating the motor vehicle shall ensure that the child is properly restrained...".

Your Committee has amended this bill by:

- (1) Deleting references in section 1 which relate to back seat passengers;
- (2) Deleting section 3;
- (3) Renumbering the remaining sections; and
- (4) Changing the effective date to January 1, 1999.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2099, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2099, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 869-98      Transportation on S.B. No. 2493**

The purpose of this bill is to amend the law to reflect the present law regarding minors driving with a measurable amount of alcohol in their system.

Your Committee finds that under current law medical personnel are not required to notify law enforcement officers if a minor has a blood alcohol level below .08. This is contrary to the zero tolerance law that was passed last session.

This bill proposes to amend the mandatory testing law to include notification of law enforcement officers if a person under the age of 21 has a blood alcohol content of .02 or higher. This bill also allows medical personnel to provide police with a blood sample from a person under the age of 21.



Testimonies in support of this measure were heard from the Department of Transportation, Mothers Against Drunk Driving, and the Hawai'i Restaurant Association.

Your Committee has amended this bill by making technical, non-substantive changes including:

- (1) adding the phrase "and (c)" to Section 1, page 1, line 2;
- (2) adding a comma to the phrase "provider<sub>2</sub> who is providing" in Section 1, page 1, line 3;
- (3) deleting the brackets around the comma in Section 1, page 1, line 5;
- (4) replacing the word "Such" with the word "The" in Section 1, page 1, line 6;
- (5) deleting the quote marks after the phrase "subsection (c)." in Section 1, page 2, line 8;
- (6) deleting the phrase "Section 2. Section 286-163, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:"; and
- (7) deleting the quotation marks from Section 2, page 2, line 11.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2493, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2493, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 870-98      Transportation on S.B. No. 2692**

The purpose of this bill, as received by your Committee on Transportation, is to extend the scope prohibiting the operation of a vehicle after suspension or revocation of a person's license for a driving under the influence (DUI) conviction.

Your Committee finds that the present law does not include moped drivers who have had their licenses suspended or revoked for DUI convictions, nor does it include persons under the age of 21 whose licenses have been suspended or revoked for driving after consuming a measurable amount of alcohol, pursuant to Section 291-4.3, Hawaii Revised Statutes (HRS).

The proposed bill includes persons whose licenses have been suspended or revoked for DUI convictions while riding mopeds. The bill also includes convictions pursuant to Section 291-4.3, HRS.

Testimonies in support of this bill were received from the Department of Transportation, the Department of the Prosecuting Attorney, City and County of Honolulu, the Police Department, City and County of Honolulu, and insurance companies.

Your Committee has amended the bill by restoring the word "motor" in the statute before the word vehicle and adding the words "or moped" after the word "vehicle" on line nine.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2692, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2692, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 871-98      Transportation on S.B. No. 3204**

The purpose of this bill, as received by your Committee on Transportation, is to help deter the high incidence of stolen vehicles.

Your Committee finds that the usage of tracking devices has reduced vehicle thefts in other jurisdictions, and would help Hawaii Police Departments locate and recover stolen vehicles, as well as apprehend the thieves. Your Committee further finds that the installation of tracking devices on vehicles in Hawaii without a search warrant is classified as a class C felony. Your Committee also finds that legalization of the use of tracking devices can be accomplished by amending the definition of "tracking device" in Section 804-41, Hawaii Revised Statutes.

The proposed bill amends the definition of "tracking device" by excluding devices installed by or with the owner's consent or at the request of a Police Department as a "bait vehicle."

Testimonies in support of this measure were received from the Police Department, City and County of Honolulu, M&G Associates, and a private citizen.

Your Committee has amended this measure by replacing the term "geopositional" with "global positional" in reference to a satellite tracking system.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3204, as amended herein, and recommends that it

pass Second Reading in the form attached hereto as S.B. No. 3204, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 872-98      Transportation on S.B. No. 3126**

The purpose of this bill, as received by your Committee on Transportation, is to require applicants for certificates of public convenience and necessity to provide proof of service upon affected certificate holders and other interested parties.

Your Committee finds that the Public Utilities Commission (PUC) may grant a temporary authority certificate to operate a common motor carrier operation for up to 120 days if an immediate and urgent need is recognized. Your Committee also finds that the PUC may consider the granting of a permanent authority certificate if application is made within 30 days after the issuance of the temporary authority. Your Committee further finds that under the current law, the applicant for a certificate does not have to inform the present certificate holders.

This bill proposes to amend Section 271-12(b), Hawaii Revised Statutes (HRS), to require an applicant for a temporary authority certificate of public convenience and necessity to serve its application on every current holder of a motor carrier certificate of public convenience and necessity in the classification for which temporary authority is being sought.

Testimonies in support of this bill were heard from the PUC and from E Noa Corporation.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3126, S.D. 2, and recommends that it pass Second Reading and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

**SCRep. 873-98      Transportation on S.B. No. 2180**

The purpose of this bill, as received by your Committee, is to make technical changes to the motor carriers law relating to unlawful operation.

Your Committee finds that the words "in" and "thereof" were inadvertently left in the bill. Removing the words "in" and "thereof" is necessary to effect the true purpose of Act 120, which was passed in the 1997 legislative session. These amendments make it possible for the Public Utilities Commission to extend civil and criminal penalty provisions of the State motor carrier law to shippers and consignees who contract and utilize the services of illegal motor carriers.

This bill proposes to remove the word "in" from the phrase "engages in" and the word "thereof" from the motor carriers law relating to unlawful operation.

Testimonies in support of this bill were received from the Department of Transportation, the Public Utilities Commission, and the Hawaii Transportation Association.

Your Committee has amended this bill by making technical, non-substantive changes, including:

- (1) removing a comma from the phrase, "service whenever possible[,] or by certified mail" in Section 1, page 3, lines 6-7;
- (2) removing a comma from the phrase, "notice was given[,] and that" on Section 1, page 4, line 10;
- (3) removing the word "such" from Section 1, page 4, line 12;
- (4) changing the word "will" to "shall" in Section 1, page 4, line 16; and
- (5) adding "New statutory material is underscored" to section 2, page 5, line 1.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2180, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2180, S.D. 1, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

**SCRep. 874-98      Agriculture on S.B. No. 2025**

The purpose of this bill is to exempt the adoption of lists of conditionally-approved, restricted, and prohibited animals and microorganisms, and restricted and prohibited plants from the public notice and public hearing requirements of the Hawaii Administrative Procedure Act; provided that the Department of Agriculture (DOA) develops alternative methods through rules for public input and notification before the lists can be adopted.

The University of Hawaii (UH) College of Tropical Agriculture and Human Resources, the UH Bekesy Laboratory of Neurobiology, the Marine Biotechnology and Biosystems Engineering Laboratory of the Hawaii Natural Energy Institute, the Hawaii Farm Bureau Federation, Kona Cold Lobsters Ltd., the Hawaii Branch of the American Society of Microbiology, Mangrove Tropicals, Mokuleia Aquafarm, the Hawaii Aquaculture Association, and several individuals submitted testimony in support of the measure. DOA testified in support of the measure, with suggested amendments.

The Hawaii Agriculture Research Center testified in support of the intent of the bill. Comments were submitted by the Tropical Fish Breeders of Hawaii, the Sierra Club, Hawaii Chapter, and Animal Rights Hawaii.

Your Committee finds that a permit is required to import any live organism into the State and that currently, a permit cannot be issued if an organism is not on the conditionally-approved or restricted lists of animals and microorganisms, which are subject to the rulemaking process. Your Committee also finds that the requirement to list plants, animals, and microorganisms according to the rulemaking process is costly and time-consuming. Many individuals, including researchers, teachers, petshop importers, diagnostic clinics and laboratories, farmers, aquaculturists, and seafood wholesalers rely on the expedience in which the lists are approved. For these reasons, your Committee believes that a more expedient process by which organisms are imported into the State is necessary, while at the same time assuring that stringent safeguards are in place to protect the environment and the general public.

Accordingly, your Committee has amended this bill by deleting its contents and inserting the language recommended by DOA that exempts the Board of Agriculture (BOA) from the public notice and hearing requirements of Chapter 91, Hawaii Revised Statutes (HRS), when adopting rules to amend the lists of conditionally-approved, restricted, and prohibited animals and microorganisms, and restricted and prohibited plants; provided that BOA adopts rules, subject to Chapter 91, HRS, to establish methods for public input and notification regarding any amendments made to the lists.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2025, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2025, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Morita and White.

**SCRep. 875-98 Higher Education and Education on S.B. No. 2308**

The purpose of this bill is to direct the overall activities for licensing private trade, vocational, and technical schools by clarifying that the purposes of such licensing is to protect consumers and ensure adequate educational quality.

Your Committees find that the testimony in companion H.B. No. 2627 which was heard on February 6, 1998, received support from the State Auditor and the Association of Pacific Postsecondary Private Schools.

Your Committees find that the purpose of licensing should be clarified to establish the basis for determining whether licensing is meeting its stated objectives. This bill will clarify that the current reasons for licensing are to protect consumers and to maintain minimum education standards.

As affirmed by the records of votes of the members of your Committees on Higher Education and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2308 and recommend that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committees except Representatives Santiago, Tarnas, Halford and McDermott.

**SCRep. 876-98 Health on S.B. No. 3234**

The purpose of this bill is to change the terminology used for persons authorized to perform services as a physician assistant from "certified" physician assistant to "licensed" physician assistant. This change will eliminate the conflicts in language and enable full implementation of The Board of Medical Examiner's new rules.

Testimony in favor of this bill was received from the Board of Medical Examiners, American Academy of Physician Assistants, Hawaii Academy of Physician Assistants and seven individuals who are physician assistants. The Department of Public Safety expressed concerns about some of the bill's provisions.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3234 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 877-98 Health and Human Services and Housing on S.B. No. 2618**

The purpose of this bill is to appropriate \$3,000,000 for the Department of Human Services (DHS) and \$4,025,000 for the Department of Health (DOH) to support medically underserved populations.

This bill is key to continuation of a responsible safety net of basic medical care for our state's most needy population. Your Committees find the number of uninsured in Hawaii has increased 50% since 1992. Yet the DOH has had to systematically trim its purchase of service (POS) funds that support medical care to the uninsured. This distressing combination of increased demand and decreased QUEST funding falls most heavily on community health centers serving the needy.

While centers still remain open they have cut their family planning, dental, behavioral and adult health care services. They have also reduced clinic hours and discontinued prescription drugs for the indigent. These stringent measures along with tightened QUEST eligibility requirements will force many ill residents to forgo needed health care. This will likely result in greater medical costs for the State as these illnesses go untreated.

This bill ensures needed POS funding and fair reimbursement rates for community health centers to continue providing for the uninsured.

Testifying in support of this bill were the DOH, Waianae Coast Comprehensive Health Center, Hawaii State Primary Care Association, Kalihi-Palama Health Center, Aloha Care, Waimanalo Health Center and Healthy Mothers Healthy Babies. The DHS testified against this measure.

As affirmed by the record of votes of the members of your Committees on Health and Human Services and Housing that is attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2618, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Ward.

**SCRep. 878-98 Health and Human Services and Housing on S.B. No. 2848**

The purpose of this bill is to expend funds in a more timely manner from the Early Intervention Special Fund and the Early Intervention Trust Fund (Funds) by authorizing expenditures to be made through the procurement process rather than the grant process.

This bill also repeals the sunset date of these Funds.

The Department of Health (DOH) testified in support of this measure. The Department of Accounting and General Services commented on this measure.

Your Committees find that this measure creates a more expedient process for funding early intervention program services while continuing to expend moneys in a deliberate manner. It should be noted that the resources in these two funds support services for children under five years of age as mandated by the Individuals with Disabilities Act and the Felix v. Cayetano Consent Decree.

Your Committees have amended this bill to allow use of the Funds for procurement of goods and services, other than health and human services, as provided by Chapter 203D, Hawaii Revised Statutes.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2848, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2848, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Ward.

**SCRep. 879-98 Tourism on S.B. No. 2078**

The purpose of this bill is to reduce the cost of transferring a commercial thrillcraft or parasailing operator's permit from an amount not less than 10 percent of the transfer price to an amount not greater than 6 percent, not to exceed \$6,000.

Your Committee received testimony as follows:

1. Board of Land and Natural Resources, West Maui Parasail, Lahaina Parasail, Commercial Parasail Operations, Watersports International, Harbor Motor and Marine, Boat Owners Association of the State of Hawaii, Hawaii Hotel Association, one concerned citizen, in support;
2. Sierra Club, in opposition; and
3. Hawaiian Island Watercraft, offering comment.

Your Committee finds that under the current economic circumstances, businesses seeking to transfer ownership of permits find the transfer fees excessive.

Your Committee revised the bill by:

1. Removing the \$6,000 limit on the amount of the transfer fee; and
2. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2078, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2078, S.D. 1, H.D. 1, and be referred to the Committee on Ocean Recreation and Marine Resources.

Signed by all members of the Committee.  
(Representative Morita voted no.)

**SCRep. 880-98 Health on S.B. No. 2608**

The purpose of this bill is to clarify the definition of "psychologist" in Section 465-1, Hawaii Revised Statutes, to allow qualified health care professionals to provide and advertise psychotherapy without undue citations or investigations by the

Department of Commerce and Consumer Affairs. Your Committee finds that most professions extend the courtesy to allied professions of allowing them to continue their psychotherapy practice by extending them licensing when their scope of practice overlaps.

Testifying in support of this bill were the Department of Commerce and Consumer Affairs, Hawaii Nurses Association and Hawaii Chapter of the National Association of Social Workers in support of this bill. The Hawaii Psychological Association testified against this measure.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2608, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 881-98 Health on S.B. No. 2825**

The purpose of this bill is to update Section 465-7(c), Hawaii Revised Statutes (HRS):

- (1) To allow psychologists licensed twenty years or more to qualify for Hawaii licensure as a senior psychologist based on the total number of sequential years of licensure, if licensed in more than one jurisdiction of the United States or Canada over the years; and
- (2) To allow psychologists who have taken the Examination for Professional Practice in Psychology (EPPP) elsewhere and obtained a score which was equivalent to or greater than Hawaii's passing score for that administration of the examination to qualify for licensure as a senior psychologist in Hawaii.

The Department of Commerce and Consumer Affairs and the Hawaii Psychological Association in support of this bill. Your Committee finds it only reasonable to allow psychologists who have been licensed in various United States or Canadian jurisdictions to obtain the required twenty years by totaling the number of sequential years they were licensed in various jurisdictions. Your Committee also finds that the majority of states now require the EPPP to qualify for licensure. Accordingly, this measure will remove this obsolete restriction.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2825 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 882-98 Human Services and Housing on S.B. No. 2622**

The purpose of this bill is to establish a pilot project under the direction of the Department of Human Services (DHS) to assist low-income people to claim federal earned income tax credits through tax counseling, return preparation, informational campaigns, and community outreach.

Your Committee finds that this pilot project is a good investment. With a minimal appropriation of \$40,000, this pilot project could bring up to \$23,000,000 into the State. In addition, studies show that the earned income tax credits received by low income persons are spent within the low income communities and thus support the communities and small businesses in the communities.

Your Committee has amended this bill by:

- (1) Setting August 1, 1998 as the date by which the contract for the providing nonprofit agency must be awarded to ensure that tax season deadlines can be met;
- (2) Requiring the Department of Taxation to assist DHS with the project;
- (3) Emphasizing the potential sizable return on the investment of funds appropriated to create the project;
- (4) Requiring the nonprofit agency to provide matching funds before any funds appropriated by the State are made available; and
- (5) Making nonsubstantive, technical amendments for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2622, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2622, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 883-98 Human Services and Housing on S.B. No. 2876**

The purpose of this bill is to correct and clarify changes implemented by Acts 200 and 354, Session Laws of Hawaii 1997, by:

- (1) Exempting from the open meetings law, meetings of boards of physicians or psychologists at which determinations of physical and mental disabilities are made;
- (2) Amending the definition of "substantial gainful employment" to mean thirty hours of work rather than twenty; and
- (3) Increasing the cap on the grant paid to general assistance (GA) recipients from sixty-six and two-thirds percent for the standard of need to sixty-six and two-thirds percent of the federal poverty level.

The American Friends Service Committee, the National Association of Social Workers, and Na Loio No Na Kanaka submitted testimony in support of this measure. The Department of Human Services and the Affordable Housing and Homeless Alliance submitted comments on this Administration bill.

Your Committee understands that due to fiscal constraints funding for GA has been substantially cut. Unfortunately, the need to afford persons with disabilities basic necessities is essential, and your Committee must advocate for this population.

Thus, your Committee has amended this measure by raising the allowances for GA to sixty-two and one-half percent of the current federal poverty level, rather than capping them at that level.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2876, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2876, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 884-98 Human Services and Housing on S.B. No. 2878**

The purpose of this bill is to allow the Director of Human Services (DHS) to recover through recoupment, tax offset, and circuit court judgment, any Medicaid overpayments made to providers resulting from provider ineligibility, a noncovered service or drug, lack of prior authorization, an incorrect payment allowance, or a claims processing error.

DHS testified in support of the measure. The Hawaii Medical Association commented on the bill.

Your Committee finds that significant revenues can be recouped through the effective recovery of Medicaid overpayments. Your Committee acknowledges, however, that some overpayments are minimal and may be the result of a provider's reliance on advice from the health plan in which the provider participates.

Therefore, your Committee has amended the bill to place a monetary threshold on the overpayment to be recovered.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2878, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2878, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 885-98 Human Services and Housing on S.B. No. 3002**

The purpose of this bill is to enable the Director of Human Services to impose civil or administrative monetary penalties on health plans under contract with the department.

The Department of Human Services submitted testimony in strong support of this measure.

Your Committee finds that recent changes in federal law include a requirement for states contracting with managed care plans to include sanctions for noncompliance. Your Committee further finds and agrees that this measure will provide the department with the needed authority to be in compliance with the Balanced Budget Act of 1997.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3002, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 886-98 Health on S.B. No. 2846**

The purpose of this bill is to create disincentives for the illegal use of drugs and alcohol, hold abusers accountable for their actions, and help fund badly-needed treatment programs by:

- (1) Adding offenses pertaining to:
  - (A) Driving under the influence (DUI) of alcohol or drugs; and
  - (B) Fraudulent acquisition or possession of controlled substances,
 to the offenses for which a Drug Demand Reduction Assessment (DDRA) may be imposed by the court; and

- (2) Extending the sunset date of the DDRA law to June 30, 2001.

The Hawaii Advisory Commission on Drug Abuse and Controlled Substances submitted testimony in support of this measure. The Department of Public Safety and the Department of the Prosecuting Attorney of the City and County of Honolulu submitted testimony in support of this measure with suggested amendments. The Honolulu Police Department and the Hawaii Substance Abuse Coalition submitted testimony in support of the intent of this measure. The Department of Health stated that they support additions to the list of offenses, however, preferred that the sunset clause be omitted.

The purpose of a DDRA is to supplement drug treatment and other drug demand reduction programs. Your Committee finds that it is fair that those who violate drug laws by distributing or using illegal narcotic drugs, should be required to contribute to programs that treat drug users and try to prevent the illegal use of drugs in the community. In addition, a DDRA is also remedial to the extent that it may be used to fund the convicted offender's own drug treatment efforts. Imposition of a DDRA makes sense both as a fiscal measure and as a means of imposing a social or ethical responsibility on the offender.

It was brought to your Committee's attention that the offense of driving after the offender's license is suspended or denied for noncompliance with an order of support (section 291-4.6, Hawaii Revised Statutes (HRS)) is not a drug or alcohol-related crime that warrants penalties under a DDRA. Furthermore, your Committee has also learned that violations under alcohol, drugs, and highway safety (Part VII of Chapter 286, HRS) are offenses usually charged in conjunction with DUI; and this bill already provides for an assessment for the DUI offense.

Based on this, your Committee has amended this bill by:

- (1) Deleting reference to section 291-4.6, HRS, because drug or alcohol related crimes do not warrant penalties under a DDRA; and
- (2) Deleting reference to Part VII of Chapter 286, HRS, because implied consent is redundant for DUI.

In addition, your Committee believes that all abusers should be held accountable for their behaviors, and that the fine for the DDRA should be paid in all cases and not just in extreme circumstances. Thus, your Committee has amended this measure by making the imposition of the DDRA mandatory.

Finally, your Committee has also amended this measure by:

- (1) Making the DDRA law permanent; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2846, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2846, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 887-98 Health on S.B. No. 2865**

The purpose of this bill is to ensure that adequate services are provided to Waimano Training School & Hospital (Waimano) residents as they make the transition into the community by:

- (1) Extending the date of the closure of Waimano from June 30, 1998, to June 30, 1999;
- (2) Requiring the Department of Health (DOH) to provide essential services for the proper transition of Waimano residents into the community; and
- (3) Expanding the rights of persons with developmental disabilities.

DOH submitted testimony in support of the intent of this measure with reservations and concerns. The State Planning Council on Developmental Disabilities, the Hawaii Government Employees Association, and the United Public Workers submitted testimony in support of this measure with requested amendments.

The Commission on Persons with Disabilities philosophically opposed this measure, but in light of the stated concerns regarding the lack of adequate support services in the community, supported the extension period to be for no more than one year. Opportunities for the Retarded, the Arc in Hawaii, and the Protection and Advocacy Agency of Hawaii opposed this measure.

Your Committee is concerned for the future well-being of the remaining twenty-seven residents of Waimano and is sensitive to the public's concerns that the most vulnerable individuals will not have access to essential services or shelter if Waimano closes and there are no appropriate community-based placements.

The intent of this measure is to facilitate an intimate relationship between the State and the private sector to cooperatively build the capacity for Waimano's most fragile residents to safely and smoothly make the difficult transition into the community.

Your Committee has amended this measure by:

- (1) Mandating DOH to provide or administer essential services to ensure the closure of Waimano;
- (2) Making technical amendments to ensure that the proposed definition for "individualized service plan" meets federal requirements for reimbursements through the Title XIX waiver program; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2865, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2865, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 888-98 Health on S.B. No. 2866**

The purpose of this bill is to strengthen mental health programs at the Hawaii State Hospital (HSH) by:

- (1) Allowing the Director of Health to appoint additional professional staff to operate the HSH mental health program; and
- (2) Exempting occupational therapists to be employed in civil service positions from certification requirements for up to one year following their graduation from an accredited school after fulfilling the educational requirements for occupational therapy.

The Hawaii Government Employees Association and the Department of Health (DOH) opposed this measure. Several individuals submitted comments.

DOH requested that HSH be able to employ uncertified occupational therapists for up to one year who have not passed the national certification examination. Your Committee finds that DOH has the appropriate safeguards in place to assure that the exception will not be abused.

Thus, your Committee has amended this measure by:

- (1) Exempting occupational therapists or occupational therapy assistants from the mandatory certification requirements for one year without having to fulfill the educational requirements for occupational therapy; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2866, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2866, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 889-98 Tourism on H.C.R. No. 72**

The purpose of this resolution is to request the Department of Labor and Industrial Relations to ensure allocation of adequate resources for training grants for the tourism and hospitality industries on the Neighbor Islands.

Your Committee received testimony as follows:

1. One Maui County Councilmember, in support; and
2. Department of Labor and Industrial Relations, in opposition.

Your Committee finds that the Neighbor Islands will probably account for most of the future growth of tourism in the state, but a great shortage of qualified personnel continues in these areas. Of the expected new jobs, 10 to 15 percent will be at supervisory, management and professional levels, but training courses and educational programs are generally not available on a regular basis.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 72 and recommends that it be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee.  
(Representative Aiona voted no.)

**SCRep. 890-98 Judiciary on S.B. No. 2314**

The purpose of this bill is to amend chapter 37D, Hawaii Revised Statutes, to allow the Judiciary to enter into financing agreements.

The Judiciary and the Department of Budget and Finance testified in support of this bill.



Your Committee finds chapter 37D, Hawaii Revised Statutes, allows state agencies to enter into financing agreements, thereby expediting construction projects while not jeopardizing ratings on state bonds. This chapter does not expressly include the Judiciary, meaning that the only capital improvement financing available to the Judiciary is the use of general obligation bonds. Your Committee believes that the Judiciary should be included under this chapter.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2314 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Jones, Menor, Yoshinaga and Thielen.

**SCRep. 891-98      Judiciary on S.B. No. 2739**

The purpose of this bill is to amend the definition of "claimant agency" in section 231-52, Hawaii Revised Statutes, to include the Judiciary.

The Judiciary testified in support of this bill. The Department of Taxation commented upon this bill.

Your Committee finds that including the Judiciary in the definition of claimant agency will allow the Department of Accounting and General Services to collect outstanding fines and debts owed to the Judiciary through the interception of State income tax refunds.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2739, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Jones, Menor, Yoshinaga and Thielen.

**SCRep. 892-98      Judiciary on S.B. No. 2782**

The purpose of this bill is to appropriate funds from the general revenues of the State to satisfy claims for legislative relief, judgments against the State, and settlements made with the State.

The Department of the Attorney General testified in support of this bill. The Department pointed out that this bill, as received by your Committee, failed to include interest payments which the State had agreed to pay as part of the settlement in two cases. The *Hose v. Thorburn* settlement should include an additional \$879.65 in interest, and the *Sato v. State* settlement should include an additional \$3,201.05. The Department further recommended including twelve additional claims that had been resolved since the introduction of this bill.

Therefore, your Committee has amended this bill by:

- (1) Correcting the amounts to be appropriated to the *Hose* and *Sato* settlements; and
- (2) Including twelve new claims, totaling \$1,519,516.24, that had been resolved since the introduction of this bill.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2782, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2782, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Jones, Menor, Yoshinaga and Thielen.

**SCRep. 893-98      Judiciary on S.B. No. 2849**

The purpose of this measure is to increase the fines for first and subsequent offenses involving the sale and furnishing of tobacco products to minors under the age of eighteen years of age, and the failure to post warning signs on or near vending machines and at or near other locations where tobacco products are sold.

Specifically, this measure increases the fines for first offenses from a maximum of \$100 to a fine of \$500; increases the minimum fine for subsequent offenses from \$100 to \$500; and increases the maximum fine for subsequent offenses from \$1,000 to \$2,000.

Your Committee received testimony in support of this measure from representatives of the Department of Health, American Heart Association, American Cancer Society, American Lung Association, Hawaii Medical Association, City and County of Honolulu Police Department, Hawaii State Commission on the Status of Women, Coalition for a Tobacco Free Hawaii, Effective National Action to Control Tobacco (ENACT) and the Hawaii Food Industry Association.

Your Committee finds that the existing method of imposing fines only on the retail seller do not constitute a significant deterrent. The Department of Health reports that through random compliance checks, it has been determined that minors are able to illegally purchase tobacco products approximately 30 percent of the time they attempt to make a purchase.

Your Committee believes that increasing fines for both the seller and the underage buyer will provide a significant step towards accountability and further reduce the illegal sale of tobacco products to minors.

Your Committee believes that requiring minors to perform community service in addition to the payment of a significant fine will increase the deterrent effect of penalties for the illegal purchase of tobacco products by minors. In addition, your Committee believes that parents and legal guardians of minors should also be aware and responsible for the actions of their children.

Therefore, after careful consideration, your Committee has amended this measure by:

- (1) Allowing the court to require a minor who unlawfully purchases tobacco products:
  - (a) For a first offense, pay a fine of not more than \$100 or order the minor to perform community service of not less than five hours nor more than ten hours in lieu of the fine; and
  - (b) For subsequent offenses, pay a mandatory fine of not more than \$200 and require the minor to perform community service ranging from not less than 10 hours to not more than 72 hours;
- (2) Requiring that a minor's parents or legal guardians shall also be responsible for the payment of any fines imposed on the minor as a result of the illegal purchase of tobacco products by the minor; and
- (3) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2849, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2849, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Thielen.

**SCRep. 894-98      Judiciary on S.B. No. 2966**

The purpose of this bill is to require criminal offenders to pay mandatory compensation fees to the Criminal Injuries Compensation Commission to be used for crime victim compensation payments and operating costs.

The Criminal Injuries Compensation Commission, Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, Department of the Prosecuting Attorney of the County of Maui, and several concerned individuals and organizations testified in support of this bill. The Judiciary and Office of the Public Defender commented on this bill.

This bill establishes a system of mandatory compensation fees that should eventually eliminate the need for appropriations from the State general fund. Your Committee finds that the compensation programs in most states are self-sufficient and believes that, in light of our State's economic difficulties, the Criminal Injuries Compensation Commission should also become self-sufficient. Furthermore, your Committee feels that shifting the burden from taxpayers to the criminal offenders is appropriate.

However, your Committee is concerned that requiring mandatory compensation would eliminate the discretion of the Judiciary in imposing these penalties. Judges should have the discretion not to impose compensation fees on a defendant who is unable to pay.

Your Committee is also concerned that one of the factors a judge must consider in determining the compensation fee is the amount necessary to reimburse the victim for losses suffered. This is already a criteria for the imposition of restitution. Your Committee believes that requiring the defendant to pay restitution twice may violate constitutional double jeopardy provisions.

Finally, your Committee believes that applying this law to those defendants who were sentenced prior to the effective date of this bill is an unconstitutional ex post facto sentence.

Therefore, your Committee has amended this bill by:

- (1) Making the compensation fee discretionary, rather than mandatory;
- (2) Requiring the court to consider the defendant's ability to pay before imposing a compensation fee and mandating that the court waive the fee if the defendant is unable to pay;
- (3) Removing the requirement that the court consider the extent of the losses suffered by the victim, including the amount necessary to reimburse a victim fully for losses suffered, when setting the amount of the compensation fee;
- (4) Increasing the ceiling on the amount of moneys received that can be used for operating expenses from thirty-five to fifty percent;
- (5) Deleting section five of the bill which allows the court to impose a compensation fee on a defendant who was sentenced prior to the effective date of this Act and whose probation has been revoked; and
- (6) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2966, S.D. 2, as amended herein, and recommends that

it pass Second Reading in the form attached hereto as S.B. No. 2966, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Thielen.

**SCRep. 895-98      Judiciary on S.B. No. 2983**

The purposes of this measure are:

- (1) To transfer the Office of Information Practices (OIP) from the Department of the Attorney General to the Judiciary for administrative purposes; and
- (2) Establish the OIP as the office responsible for overseeing compliance of the open meetings law and open records law.

Your Committee received testimony in support of this measure from representatives of the Office of Information Practices, Office of Hawaiian Affairs, Common Cause Hawaii, League of Women Voters, Hawaii Clean Elections and a concerned individual. Your Committee received testimony supporting the intent of this measure from the Hawaii Chapter of the Society of Professional Journalists and the Honolulu Community-Media Council.

Your Committee received testimony in opposition to this measure from the State Attorney General and the Judiciary.

Your Committee finds that the OIP is responsible for maintaining open access to public information as mandated by the federal Uniform Information Practices Act (Modified). The public finds the OIP an invaluable resource in assisting and providing access to these files and records. Moreover, the OIP has been praised as being a model approach to public access to information by national freedom of information advocates.

Accordingly, your Committee believes that the OIP is the appropriate agency to collect information, investigate, and respond to inquiries and report to the Legislature regarding complaints of non-compliance with the open meetings and open records law.

However, your Committee is concerned that placement of the OIP in the Judiciary may create a potential conflict of interest, or appearance thereof, and raises questions regarding the separation of powers.

Therefore, after careful consideration, your Committee amended this bill by:

- (1) Replacing the word "agency" with the word "board," in those sections of the bill that give the OIP power to oversee compliance with chapter 92, Hawaii Revised Statutes;
- (2) Transferring the OIP from the Department of the Attorney General to the office of the Lieutenant Governor, rather than the Judiciary;
- (3) Clarifying that complaints of board non-compliance with the provisions of chapter 92 shall be submitted to the OIP; and
- (4) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2983, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2983, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Thielen.

**SCRep. 896-98      Agriculture on S.B. No. 2236**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for the plans, design, and construction of a new slaughterhouse on Oahu.

The Hawaii Farm Bureau Federation, the Hawaii Fresh Milk Industry, Hawaii Food Products, Inc., the Hawaii Pork Industry Association, and the Farmers' Livestock Cooperative testified in support of this measure. The Department of Agriculture also testified in support of this measure so long as it doesn't replace the priorities in its Executive Biennium Budget. Animal Rights Hawaii opposed this measure. The Department of Budget and Finance and the Attorney General commented on this measure.

Your Committee notes that this bill is similar to H.B. No. 2547, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Your Committee recognizes the need to construct a new slaughterhouse facility on Oahu to take the place of the current slaughterhouse facility, whose lease will expire in 2004. The continuity to provide for a slaughterhouse facility is essential to ensure the current and future viability of the State's livestock industry.

Upon consideration, your Committee has amended this bill by:

- (1) Identifying Palama Meat Company as the project party to benefit from the issuance of the special purpose revenue bonds;

- (2) Specifying that the special purpose revenue bonds are for the establishment of a slaughterhouse including a meat processing place and a waste processing plant on Oahu;
- (3) Deleting the definition of "slaughterhouse"; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2236, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2236, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita and White.

**SCRep. 897-98      Agriculture on S.B. No. 3223**

The purpose of this bill is to provide for venture-type activities on agricultural park complexes by requiring the Department of Agriculture (DOA) to set aside one lot within each of its existing and future agricultural park complexes for processing, marketing, and displaying agricultural crops or commodities.

DOA testified in support of the bill with suggested amendments. The Hawaii Farm Bureau Federation and an individual submitted testimony in support of the measure.

Your Committee believes that a committee should be established in each agricultural park complex to determine which lot to set aside for commercial venture-type activities and to determine how much to charge for leasing the space. Your Committee further believes that these considerations should be reflected in the Board of Agriculture's rulemaking process to accommodate the needs and interests of the agricultural park lessees.

Upon consideration, your Committee has amended this bill by:

- (1) Authorizing, rather than requiring the DOA to set aside land within agricultural park complexes for commercial venture-type activities, which may include any product created through value-added processes;
- (2) Authorizing DOA to set aside not more than three lots, rather than one lot, for commercial venture-type activities; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3223, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3223, S.D.2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita and White.

**SCRep. 898-98      Tourism on S.B. No. 1012**

The purpose of this bill is to amend the Hawaii Revised Statutes to expand the income-splitting provision for tourism-related services to include goods and apply to destination managers.

Your Committee received testimony as follows:

1. MC and A, in support; and
2. Department of Taxation, Tax Foundation of Hawaii, offering comment.

Your Committee finds that destination managers, in providing travel and activity arrangements in a manner similar to travel agents and tour packagers, should likewise be allowed to divide their tax burden.

Your Committee revised the bill by:

1. Changing the effective date to July 1, 1998; and
2. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1012, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1012, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Aiona.

**SCRep. 899-98      Education on S.B. No. 2385**

The purpose of this bill is to support early childhood education and care by creating a special fund consisting of revenues from fees from a special license plate and to be expended for early childhood education and care.

The Good Beginnings Alliance submitted testimony in support of the bill. The Department of Budget and Finance commented on the measure.

While in support of the bill, the Good Beginnings Alliance recommended amending the bill to assure that the Superintendent of Education expend moneys from the special fund in accordance with the Good Beginnings Community Council plans developed by each county.

While your Committee strongly supports early childhood education and care, political realities require the source of the funding to be changed.

Your Committee has amended the bill by:

- (1) Eliminating the creation of special license plates and replaced it with the creation of special birth certificates;
- (2) Adopting the recommendation of the Good Beginnings Alliance; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2385, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2385, S.D. 2, H.D. 1, and be referred to the Committees on Health and Human Services and Housing.

Signed by all members of the Committee except Representatives Morihara, Santiago, Takamine, Tarnas and McDermott.

**SCRep. 900-98      Health on S.B. No. 2858**

The purpose of this bill is to streamline the regulation of nurse midwives while continuing to protect the public by:

- (1) Repealing the provisions of part XXXI of chapter 321, Hawaii Revised Statutes (HRS), that require nurse midwives to be licensed by the Department of Health (DOH); and
- (2) Mandating that nurse midwives be recognized as advanced practice registered nurses (APRN) under chapter 457, HRS.

The Board of Nursing (Board) submitted testimony in support of the intent of this measure. DOH submitted comments.

Your Committee understands that nurse midwives are APRNs and subject to regulation by the Board. Therefore, your Committee finds that the licensing of nurse midwives by DOH is redundant and unnecessary.

In order to clarify the intent of this bill, your Committee has amended this measure by:

- (1) Amending section 457-8.5, HRS, to require that the Board recognize a certified nurse midwife as an APRN;
- (2) Requiring that certified nurse midwives have current certification from a national certifying body recognized by the Board;
- (3) Granting nurses recognition as an APRN, provided that the nurse has an unencumbered license as a registered nurse in all other states in which the nurse is currently licensed; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 901-98      Human Services and Housing on S.B. No. 2986**

The purpose of this bill is to appropriate funds allowing the Department of Human Services (DHS) to obtain the services necessary to prepare and submit a waiver application to the federal Health Care Financing Administration. The waiver would allow the costs of long term health care provided within the framework of a managed care program, to be reimbursed by Medicaid. Under the waiver program, those needing on-going medical assistance to care for themselves would have the option of receiving reimbursable care outside of costly nursing facilities, and in less restrictive home- and community-based contexts.

Aloha Care, Hawaii Long Term Care Association (HLTCA), and Kokua Kalihi Valley (KKV), testified in support of the bill. KKV testified that the managed care model for long-term care was both necessary and timely, because many of the increasing numbers of persons requiring on-going medical care could not be institutionalized, or did not wish to be institutionalized.

The HLTCA stated that its membership, 60 percent of which are private, freestanding nursing homes, believed that a home- and community-based long term-care program was an essential part of the long-term care continuum. The HLTCA testified that its membership was "standing in line" to be part of the demonstration project to be engendered by the bill.

Aloha Care testified that an appropriation to the DHS for preparation of a waiver application would be matched by funds from the federal government. Aloha Care also testified that it would be pursuing Robert Wood Johnson grant moneys to defray the implementation costs of the managed care demonstration, and that the enabling legislation under this bill would greatly enhance the possibility of being awarded these funds.

The Department of Human Services (DHS) testified in opposition to the bill. Although DHS acknowledged the importance of establishing an array of cost-effective and desirable long-term care services, it could not support the bill because the appropriation would cause DHS to exceed the executive budget and the bill would impact upon existing priorities.

Your Committee finds that especially in the current, troubled economic context, and in view of our aging "baby boom" population, it is important to facilitate the establishment of programs like the long-term managed care program that is the goal of this bill. The waiver under this bill, and the demonstration program that it will authorize, are the critical first steps moving the State toward a public-private health care system that will expand the availability of medical care alternatives, enhance the quality of life, and potentially provide the State with significant medical care cost savings.

Upon consideration of budgetary constraints as well as the possibility that private funds might be obtained to defray costs of the waiver application, your Committee has amended this bill to remove appropriation provisions, and to require that DHS submit the waiver application within six months of receipt of necessary funding. Your Committee has also amended this bill to require that DHS report on planning as opposed to evaluation of the demonstration managed care program, because the demonstration will be implemented only after the waiver is received.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2986, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2986, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 902-98 Human Services and Housing on S.B. No. 3191**

The purpose of this bill is to provide an incentive for insurance companies to invest in low-income housing projects by allowing insurance companies to use a low-income housing tax credit to offset their insurance premium taxes.

The Housing Finance Development Corporation, the Department of Taxation, the Department of Housing and Community Development of the City and County of Honolulu, Transamerica Realty Services, the Affordable Housing and Homeless Alliance, M.A. Mortenson, DAY Real Estate Company, Coastal Rim Properties, and an individual submitted testimony in support of this measure. The Tax Foundation of Hawaii and Hawaii Affordable Properties submitted comments.

Your Committee finds that a low-income housing tax credit will increase competition and improve private financing of affordable housing partnerships. Since housing in Hawaii, especially for the poor, continues to be a serious and chronic problem, your Committee finds that this bill will assist the State's low-income population by providing incentives to insurance companies to invest in low-income housing projects.

Your Committee has amended this measure by:

- (1) Repealing the low-income housing tax credit on January 1, 2001;
- (2) Requesting the Housing and Community Development Corporation of Hawaii to report to the Legislature on whether the low-income housing tax credit serves the purposes intended;
- (3) Effectuating this measure on July 1, 1998; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3191, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3191, S.D. 2, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 903-98 Human Services and Housing and Health on S.B. No. 2635**

The purpose of this bill is to help the aged, blind, and disabled (ABD) population transition into QUEST II by establishing an ombudsman program within the Department of Human Services (DHS) to represent consumers in the QUEST II program.

The State Planning Council on Developmental Disabilities, the Hawaii Medical Association, the Legal Aid Society of Hawaii, the Protection and Advocacy Agency of Hawaii, and two individuals submitted testimony in support of this measure. DHS and the Commission on Persons with Disabilities submitted comments.

Your Committees find that the QUEST II program serves the vulnerable ABD population that is most in need of assistance in navigating through the Medicaid system of managed care. An ombudsman-type program is necessary to ensure that the persons being served by the program understand their benefits, receive those benefits to which they are entitled, and receive them on a timely basis. Your Committees believe that:

- (1) An ombudsman would improve the QUEST II program by helping those most in need of help; and
- (2) An ombudsman program should represent the ABD enrollee in a representative capacity and therefore, shall take the place of any other dispute resolution office or mediation program proposed by DHS to respond to complaints or disagreements about health care plans.

After careful consideration, your Committees have amended this measure by:

- (1) Giving the QUEST II ombudsman the ability to perform its functions outside of the health care plan;
- (2) Providing that funding for the QUEST II ombudsman be made available through QUEST healthcare payments (HMS 245);
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committees concur that there shall be no additional budget requests for the purposes of this measure.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2635, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2635, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Ward.

**SCRep. 904-98 Human Services and Housing and Health on S.B. No. 3076**

The purpose of this bill is to create a contracts office within the Department of Human Services (DHS) to coordinate, consolidate, and integrate purchase of service contracting for DHS and the Department of Health (DOH).

Your Committees find that a consolidation and coordination of certain administrative functions of DHS and DOH will promote efficiency, avoid duplication, and maximize the use of resources.

After careful consideration of comments received from DOH and DHS, your Committees have amended this bill by:

- (1) Administratively attaching the contracts office to DOH;
- (2) Making the monitoring and auditing functions of the contracts office discretionary;
- (3) Clarifying and emphasizing the administrative nature of the bill by expressly stating that the measure shall not affect the funding of DHS or DOH programs; and
- (4) Making technical, nonsubstantive amendments for purposes of style and clarity.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3076, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3076, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Ward.

**SCRep. 905-98 Human Services and Housing and Health on S.B. No. 3123**

The purpose of this bill is to ensure that funds appropriated for Medicaid managed care services through the QUEST program are distributed equitably to health plans and to providers of care by requiring the Department of Human Services (DHS) to develop and implement a new methodology for the distribution of QUEST funds that is based upon patient health risk characteristics.

The Hawaii State Primary Care Association, the Kalihi-Palama Health Center, AlohaCare, the Waimanalo Health Center, and the Waianae Coast Comprehensive Health Center submitted testimony in support of this measure. DHS, the Hawaii Medical Services Association, and the Queen's Hawaii Care opposed this measure. Healthy Mothers, Healthy Babies provided comments.

Your Committees find that the current capitation methodology of managed care of QUEST is outdated, as it is based on pre-QUEST fee-for-service Medicaid data. This capitation methodology overcompensates QUEST health plans and providers who treat a relatively healthy population, while it undercompensates plans and providers that care for a disproportionate share of patients who are high risk and need more than average medical attention.

Using patient health risk characteristics to develop a new methodology for the distribution of QUEST funds will address the problem of undercompensation. However, your Committees have learned of a more effective system that has proven to be fair and equitable: a risk adjustment system.

Risk adjustment is a financial mechanism through which monetary transfers are made from health carriers that insure lower risk populations to those that insure higher risk populations. Thus, carriers that enroll a more costly population receive more revenue without charging higher premiums.

Your Committees are in favor of this new model, and thus, have amended this measure by:

- (1) Requiring DHS to develop and implement a new methodology for the distribution of QUEST funds based on a risk adjustment system;
- (2) Establishing criteria upon which the new system will be developed; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Housing and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3123, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3123, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Ward.

**SCRep. 906-98      Transportation on S.B. No. 2761**

The purpose of this bill is to amend the requirements needed to obtain liability coverage for motorcycles.

Your Committee finds that motorcyclists who attend and pass an approved Motorcycle Safety Foundation course are eligible to save up to 15% on their insurance premiums. Your Committee also finds that the Department of Defense requires that all military personnel attend and pass a Motorcycle Safety Foundation approved course in order to operate a motorcycle on military installations.

This bill proposes to require persons seeking motorcycle liability coverage to have enrolled in and passed an education course approved by the Department of Transportation or the installation commander of any branch of the U.S. military that meets the Motorcycle Safety Foundation learn to ride course standards.

Testimonies in support of this measure were heard from Carr's Insurance Agency, Street Bikers United, and six concerned citizens and motorcycle riders.

Testimonies opposed to this measure were heard from the Motorcycle Safety Foundation and the Wm. F. Jones Insurance Agency, Inc.

The Department of Transportation submitted testimony that supported the intent of the bill, but concurred with the recommendations of the Motorcycle Safety Foundation that requested that the bill be deferred.

Your Committee has amended this bill by:

- (1) changing the phrase "learn to ride" to "Motorcycle Rider Course Riding and Street Skills" in Section 1, page 1, lines 13-14; and
- (2) changing the effective date to "January 1, 1999" in Section 3, page 1, line 17.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2761, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2761, S.D. 2, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Yamane.

**SCRep. 907-98      Transportation on S.B. No. 3094**

The purpose of this bill is to amend the requirements for interisland shipment of a vehicle.

Your Committee finds that under current law, a legal owner shipping a vehicle interisland must present to the shipper a certificate of title, or current registration, a picture identification card, and a no-fault insurance card. If the person delivering the vehicle to the shipper is not the owner of the car, the person must also obtain written consent from the lienholder and have it notarized.

This bill proposes to facilitate interisland shipping of vehicles by allowing more flexibility in required documentation by providing certain exceptions for government owned and operated vehicles, motorcycles, licensed dealers who ship five or more vehicles, and rental motor vehicles. This bill also removes the requirement that a notarized written consent or bill of sale be presented to the shipper in order to ship a car interisland.

Testimonies in support of this measure were heard from the Hawaii Automobile Dealers' Association, Young Brothers, Limited, ADT Automotive Services, Inc, Thrifty Car Rental, CATRALA-Hawaii, and Republic Industries, Inc. Testimony in support of intent, with amendments, was heard from Insurance Auto Auctions. Testimony opposed to the measure was heard from the Hawaii Bankers Association.



Your Committee has amended this bill by:

- (1) deleting Section 1 of the bill;
- (2) adding a "(1)" to Section 1, page 3, line 14; and
- (3) adding the phrase ", or (2) by those licensed dealers whose primary business is the auction of insurance salvage vehicles" to Section 1, page 3, lines 15-17.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3094, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3094, S.D. 2, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

**SCRep. 908-98          Transportation on S.B. No. 2914**

The purpose of this bill, as received by your Committee, is to amend the licensing requirements for commercial driver's licenses (CDL).

Testimonies in support of this measure were heard from the Department of Transportation, the City and County Department of Finance, and the Hawaii Transportation Association.

Your Committee finds that requirements for renewal of a CDL included a knowledge test. Removal of this requirement will provide the same licensing requirements for both CDL and regular driver's licenses.

This bill proposes to allow the reactivation of expired CDL within one year of expiration without requiring a knowledge test. This bill also proposes to extend the validity of initial and renewal CDL to six years.

Your Committee has amended this bill by:

- (1) removing the brackets around ";provided" in Section 2, page 2, line 16;
- (2) deleting the word "except" in Section 2, page 2, line 16; and
- (3) adding a comma to the phrase "provided that, unless sooner" in Section 2, page 2, line 16.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2914, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2914, S.D. 1, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

**SCRep. 909-98          Human Services and Housing on S.B. No. 2875**

The purpose of this bill is to ensure that Department of Human Services (DHS) programs remain in compliance with the federal Personal Responsibilities and Work Opportunities and Reconciliation Act (PRWORA) of 1996 by deleting the sunset date of June 30, 1998.

Na Loio No Na Kanaka submitted testimony in support of this measure and submitted amendments. DHS and the National Association of Social Workers submitted comments.

DHS explained that if the sunset dates are not removed, the amendments which allow Hawaii to administer its welfare reform program, "Pursuit of New Opportunities" (PONO), would be terminated. Specific provisions in PRWORA mandate that PONO be limited to five years and that the State meet established participation requirements. Thus, if these amendments are allowed to expire on June 30, 1998, the State will no longer be in compliance with the federal requirements which may jeopardize the receipt of federal funds.

Your Committee is sensitive to the negative effects of budget cuts for welfare recipients and legal immigrants. Current budget proposals hurt these individuals because they receive less public assistance and they lose important social services that are currently available to assist them.

Therefore, your Committee has amended this measure by:

- (1) Enabling DHS to provide food stamp benefits to legal immigrants and others who are ineligible for the federal food stamp program;
- (2) Mandating DHS to set the standard of need at the current federal poverty level on a year by year basis depending on the amount appropriated;
- (3) Repealing the General Assistance Advisory Council and replacing it with the Financial Assistance Advisory Committee;

- (4) Incorporating a severability clause to provide that if any part of the bill is found invalid, the rest of the bill will still remain in tact; and
- (5) Making technical, nonsubstantive amendments for purposes of clarity and style.

Your Committee understands that due to fiscal constraints funding for financial assistance has been substantially cut. Nonetheless, your Committee believes that raising the standard of need to the current federal poverty level is necessary, and wishes to convey that DHS must strive to reach these levels of assistance through their resources provided.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2875, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2875, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 910-98 Labor and Public Employment on S.B. No. 2777**

The purpose of this bill is to improve the manner in which employees hired by the State on or after July 1, 1998, are paid.

Specifically, this measure would:

- (1) Require that paychecks be made by bank assignment to the employee's designated financial institution, instead of by check, unless otherwise directed by the Comptroller; and
- (2) Provide that new employees are paid on an after-the-fact basis.

The Department of Accounting and General Services, the Department of Public Safety, and the Department of Human Resources Development testified in support of this measure. The Hawaii State Teachers Association testified in support of the intent of this bill.

Your Committee notes that this bill is similar to H.B. No. 2761, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Your Committee finds that State employees are currently paid by checks or by bank assignments to their designated financial institutions. By requiring payment by electronic funds transfer, the State will reduce the number of paychecks issued and reduce the incidences of reissued paychecks to replace those that are lost, stolen, damages, or not received. In addition, your Committee finds that this measure will prevent overpayments to employees because they will be paid on an after-the-fact basis.

This bill has been amended by changing its effective date to June 30, 1998.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2777, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2777, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 911-98 Labor and Public Employment on S.B. No. 2885**

The purpose of this bill is to streamline the hearings process to meet the 60-day time limit to render a decision by authorizing hearings officers appointed by the Director of Labor and Industrial Relations (Director) to render final decisions on appeals in cases involving violations of the wages and hours law on public works.

The Department of Labor and Industrial Relations (DLIR), the Hawaii Operating Engineers Industry Stabilization Fund, and the Pacific Resource Partnership testified in favor of this bill.

Your Committee notes that this bill is similar to H.B. No. 2867 which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Judiciary.

Your Committee finds that:

- (1) This bill will streamline the hearings process and facilitate the resolution of appeals filed by employers and complaints filed by workers; and
- (2) DLIR will be able to issue a final decision without first issuing a proposed decision, which will be a more efficient process than the present process which requires the Director to render all decisions.

Your Committee has amended this bill by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2885, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2885, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 912-98 Education on H.C.R. No. 8**

The purpose of this concurrent resolution is to show state support for the Department of Education's participation in the Hawaii School-to-Work Opportunities System.

Furthermore, this resolution encourages private sector support for the system when federal funding terminates.

Your Committee finds that the school-to-work system is a coalition of public-private partnerships that link education, the workplace, and the community, effectively preparing students for the job market as well as post-secondary education and training. However, federal funding is scheduled to terminate in the year 2000. Therefore, alternative funding sources must be located in order to maintain adequate funding after that year.

Testimony in support of this resolution was received from the Department of Education, the Department of Business, Economic Development, and Tourism, the Hawaii State Teachers Association, the Hawaii State Parents, Teachers and Students Association, the Chamber of Commerce of Hawaii, and the Hawaii Business Roundtable.

Your Committee has amended this measure by:

- (1) Requesting the private sector to provide leadership as well as financial support for the system when federal funding ends;
- (2) Requesting the Superintendent of Education to submit a report to the Legislature outlining possible ways to continue the system and steps taken to improve federal, private sector, and foundation funding for the system;
- (3) Indicating that the public and private sector must work together in ensuring the continued existence of the system; and
- (4) Indicating the Department of Education's commitment to the system should be reflected in its budget priorities.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 8, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 8, H.D. 1.

Signed by all members of the Committee except Representatives Arakaki, Santiago, Takamine, Tarnas and Yonamine.

**SCRep. 913-98 Education on H.C.R. No. 23**

The purpose of this concurrent resolution is to request the Auditor to conduct a management and financial audit of the school-to-work opportunities system.

Specifically, this measure requests the Auditor to conduct a review of:

- (1) The approval process for awarding grants and contracts;
- (2) Plans for the transition from federal/state funding to full State funding when federal funding ends;
- (3) The implementation of Act 343, Session Laws of Hawaii 1997, and Act 344, Session Laws of Hawaii 1997, including the reasons why job site safety inspections required as a condition of receiving state-sponsored workers' compensation benefits for participants have not occurred; and
- (4) The student population being provided for under existing school-to-work programs, with regard to students' socio-economic status, race, gender, ethnicity, special needs, disability, limited English proficiency, teen parents, and academic talent.

Your Committee finds that Hawaii and the rest of the states are undertaking a major initiative that involves reforming education, developing its workforce, and stimulating economic development. The states are attempting to create a school-to-work system that all major industrialized countries have in place except for the United States. To help accomplish this, Congress enacted the federal School-to-Work Opportunities Act of 1994, P.L. 103-239. The State of Hawaii passed Acts 343 and 344, Session Laws of Hawaii 1997, to create a school-to-work opportunities pilot project and to provide workers' compensation insurance benefits for students participating in work-based learning programs. Hawaii will receive \$10,200,000 in federal funds over a five-year period, and the Legislature has appropriated \$1,000,000 for fiscal biennium 1997-1999, to build the State's school-to-work system.

Your Committee received testimony supporting the intent of this measure from the Department of Education, the Hawaii State Teachers Association, and a private citizen. The Department of Labor and Industrial Relations and the Chamber of Commerce of Hawaii submitted comments.

Your Committee has amended this measure by:

- (1) Noting that some progress has been made in conducting the safety inspections required as a condition of providing workers' compensation insurance benefits to students participating in school-to-work projects;

- (2) Noting that there is an urgent need to facilitate the implementation of the school-to-work opportunities system since federal funding for the school-to-work opportunities system will end in two years; and
- (3) Making a technical, nonsubstantive change for purposes of clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 23, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 23, H.D. 1.

Signed by all members of the Committee except Representatives Arakaki, Santiago, Takamine, Tarnas and Yonamine.

**SCRep. 914-98 Education on H.C.R. No. 61**

The purpose of this concurrent resolution, as received, is to request that the Board of Education (BOE) establish a program to define and implement the role of the public schools in contemporary society in inculcating values and ethics.

The Department of Education (DOE), while supporting the intent of this concurrent resolution, testified that BOE has already adopted a policy specific to character education ("BOE Policy #2101") that requires BOE to not only identify a common core of ethical values for promotion throughout the public school system and to serve as standards for student behavior and character development, but also to include character education in the curriculum at each grade level in the public schools.

Your Committee, after taking DOE's testimony into account, has amended this concurrent resolution by:

- (1) Requesting DOE to complete its identification of a common core of ethics and values to be promoted in the public schools and to begin to inculcate these ethics and values into the curriculum at each grade level; and
- (2) Requesting that DOE submit a report on its efforts to implement BOE Policy #2101 to the Legislature prior to the convening of the Regular Sessions of 1999 and 2000.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 61, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 61, H.D. 1..

Signed by all members of the Committee except Representatives Santiago, Takamine, Tarnas and Yonamine.

**SCRep. 915-98 Education on H.C.R. No. 62**

The purpose of this concurrent resolution is to request the Legislative Reference Bureau (LRB) to conduct a study to assess the need for an afterschool center for intermediate school students in the Hilo district.

This measure is the result of a workshop attended by students of Waiakea Intermediate School and Keaau Middle School whose purpose was to identify the needs of students of this age range. Since then, workshop participants have already conducted a survey of students at Waiakea Intermediate School that showed that 88 percent of respondents would participate in the kind of center envisioned by this concurrent resolution.

Testimony in support of this measure was submitted by the Department of Education and a number of students of Waiakea Intermediate School and Keaau Middle School.

Your Committee finds that, in presenting testimony, the students demonstrated that they are capable of conducting the study described in this measure. However, they may need assistance compiling the results of the study.

This concurrent resolution has been amended by:

- (1) Adding that federal grants may be available to help create the center, along with assistance from the Center for Youth Research and the Keiki Caucus;
- (2) Deleting that the LRB conduct the study, and instead making the students of Waiakea Intermediate School and Keaau Middle School, through the Department of Education, responsible for the study;
- (3) Revising the requirements of the study;
- (4) Requesting that the students seek the assistance of the Center for Youth Research and the Keiki Caucus;
- (5) Requesting LRB to compile the findings and recommendations of the students;
- (6) Transmitting copies of the concurrent resolution to the Principals of Waiakea Intermediate School and Keaau Middle School, the Keiki Caucus, and the Center for Youth Research; and
- (7) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 62, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.C.R. No. 62, H.D. 1.

Signed by all members of the Committee except Representatives Santiago, Takamine, Halford and McDermott.

**SCRep. 916-98 Economic Development and Business Concerns on S.B. No. 3258**

The purpose of this bill is to accelerate the growth of knowledge-based industries in the State by:

- (1) Providing a tax credit for technology training and the creation of technology related-jobs;
- (2) Establishing the Hawaii Internet Exchange (HIE) to serve as a catalyst for the development of internet-focused businesses;
- (3) Including in the Hawaii State Planning Act, the development of internet services and improvement of student access to technology;
- (4) Establishing an Information and Telecommunications Work Force Training Program (Training Program) to provide accelerated information technology education and training from post high school to graduate levels; and
- (5) Providing for high speed access to the internet for the University of Hawaii (UH) and the public schools.

In addition, this bill also:

- (1) Appropriates funds to establish HIE and the Training Program; and
- (2) Authorizes the issuance of general obligation bonds to establish a fiber optic connection to the internet for UH and the Department of Education (DOE).

DOE, the High Technology Development Corporation, and the Hawaii State Teachers Association testified in support of this measure. The Department of Taxation testified in support of the measure but indicated its opposition to the tax credit provisions of the bill. Comments were submitted by UH and the Tax Foundation of Hawaii. The Department of Budget and Finance testified in opposition to this measure.

Your Committee has amended this bill by:

- (1) Deleting the tax credit for technology training and the creation of technology related-jobs;
- (2) Providing a five-year exemption from State income and general excise taxes for Hawaii software development businesses;
- (3) Changing the effective date to reflect these amendments; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Business Concerns that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3258, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3258, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 917-98 Tourism on S.B. No. 2730**

The purpose of this bill is to establish an international exchange program between the UH Schools of Medicine and Nursing and foreign healthcare provider educational institutions, establish the international healthcare exchange revolving fund, and make an appropriation to the revolving fund.

Your Committee received testimony as follows:

1. Department of Business, Economic Development, and Tourism, University of Hawaii School of Nursing, University of Hawaii School of Medicine, Hawaii Nurses' Association, in support;
2. Department of Budget and Finance, in opposition; and
3. Office of Information Practices, offering comment.

Your Committee finds that expansion into the health-related tourism segment of the visitor industry offers one of the best hopes for reviving Hawaii's economy, utilizing Hawaii's well-developed tourism reputation and its existing excellent healthcare facilities. In addition, many of Hawaii's medical service providers already have contractual arrangements with a number of Asia-Pacific nations which provide a base for the further development of health tourism.

The creation of long-term relationships through exchange programs between Hawaii and the healthcare communities in Asia and the rest of the world, including those which are part of the sister-state-province partnership, will be an important factor in the success of health tourism promotion efforts. This program will broaden and solidify the network of physician referrals of patients in Asia to Hawaii medical institutions.

Your Committee finds that the strength of the contacts already established will enable the School of Medicine and the School of Nursing to generate a sufficient flow of income to keep the program self-sustaining, thus justifying the creation of a revolving fund and eliminating the need for an appropriation.

Your Committee revised the bill by:

1. Removing the appropriation and the provision requiring that expenditures from the fund be made on a proportional basis;
2. Adding provisions specifying that moneys deposited into the revolving fund for the School of Medicine and the School of Nursing shall be divided into separate accounts for each school, provided that moneys not designated for use by a particular school shall be divided equally, and requiring that expenditures shall be made from each separate account;
3. Requiring an annual report to the Legislature jointly prepared by the Deans of the School of Medicine and the School of Nursing, accounting for all income and expenditures from the revolving fund; and
4. Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2730, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 918-98 Consumer Protection and Commerce on S.B. No. 2600**

The purpose of the bill is to authorize the issuance of special purpose revenue bonds and refunding special purpose revenue bonds for capital improvement projects of the Hawaiian Electric Company, Inc. (HECO) and the Hawaii Electric Light Company, Inc. (HELCO) for the construction of facilities to furnish electricity.

HECO and HELCO testified in favor of the bill.

The capital improvement projects for which bond financing is sought are those necessary to improve the reliability of the utilities' existing systems and for expansion of the systems to meet new customer needs. Financing of these projects through the sale of tax-exempt special purpose revenue bonds, rather than through the use of taxable debt, will enable the utilities to do construction at a lower cost, thereby resulting in savings for ratepayers who pay for the cost of financing through their electricity rates. All costs associated with the bonds, including the payment of interest and principal, will be the obligations of the utilities and not the State.

Your Committee has amended this bill by replacing its contents with the language of H.B. No. 2671, H.D.1, that earlier passed the House and is substantially similar to the bill as received.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2600, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2600, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Tom, Yoshinaga, Aiona and Pendleton.

**SCRep. 919-98 Consumer Protection and Commerce on S.B. No. 2228**

The purpose of this bill is to make public service company tax provisions more equitable by:

- (1) Amending the definition of "gross income" to allow motor carriers to pay the public service company tax only on their portion of gross receipts if received through arrangements with other motor carriers;
- (2) Allowing accounts found to be worthless and charged off for income tax purposes to be deducted from gross income; provided that if subsequently collected, the amounts be added to the gross income;
- (3) Excluding tour packagers from the definition of "carrier"; and
- (4) Clarifying the definition of "motor carrier" to include the transportation of persons or property for compensation.

The Hawaii Transportation Association and Roberts Hawaii testified in support of this bill. The Department of Taxation submitted testimony indicating that it is not opposed to the bill. Comments were submitted by the Tax Foundation of Hawaii.

Your Committee has amended this bill by replacing its contents with the language of H.B. No. 2660 which provides that this Act apply retroactively to taxable years beginning after December 31, 1997, and makes technical, nonsubstantive revisions for purposes of style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2228, S.D. 1, as amended

herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2228, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Tom, Yoshinaga, Aiona and Pendleton.

**SCRep. 920-98 Consumer Protection and Commerce on S.B. No. 2338**

The purpose of this bill is to establish a regulatory framework for hoisting machine operators to be funded by a special fund consisting of fees, penalties, and fines collected pursuant to the new regulations.

The Hawaii Operating Engineers Industry Stabilization Fund and the Pacific Resource Partnership testified in support of the bill. The Department of Labor and Industrial Relations (DLIR) supported the underlying intent to promote safety in hoisting machine operations but did not support the additional costs to government and the regulated community.

Act 347, Session Laws of Hawaii 1997, mandated DLIR, in consultation with affected labor organizations, labor/management organizations, and management organizations with expertise in local hoisting operation training and practical testing experience, to develop recommendations for certification of hoisting machine operators. This bill is the result of these discussions and recommendations.

Your Committee finds that regulation of this industry will increase safety on job sites not only for hoisting machine operators but also for other workers on the site.

Upon further consideration, your Committee has amended this measure by including the suggested amendment from the Hawaii Operating Engineers Industry Stabilization Fund that two representatives from the organization that represents both the management and operators of the contractors that employ hoisting machine operators be added to the Hoisting Machine Certification Board, bringing the total number to seven.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2338, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2338, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Tom, Yoshinaga, Aiona and Pendleton.

**SCRep. 921-98 Consumer Protection and Commerce on S.B. No. 2808**

The purpose of this bill is to clarify the status of the Universal Service Fund (Fund) and improve Fund administration by:

- (1) Establishing it as a special fund within the state treasury;
- (2) Exempting it from the administrative surcharges set forth in sections 36-27 and 36-30, Hawaii Revised Statutes, (HRS);
- (3) Exempting it from section 37-51, HRS; and
- (4) Providing that any unexpended or unencumbered balance of any appropriation will lapse into the Fund.

Oceanic Communications, AT&T, and GTE Hawaiian Telephone Company Incorporated submitted testimony supporting this bill. GST Telecom Hawaii supported the intent of this bill. The Public Utilities Commission and the Consumer Advocate supported this bill with proposed amendments.

The Universal Service Fund is intended to provide support for customers who may not otherwise be able to afford telephone service. Your Committee finds that clarifications to the nature of the fund will benefit Hawaii's telecommunications users, thereby implementing a critical component of the telecommunications competition law as found in Act 225, Session Laws of Hawaii 1995.

In addition, your Committee finds that clarifying the Fund to be outside the State treasury allows for third party administration of the Fund which will ensure a timely distribution of moneys unencumbered by disbursement mechanisms required by State policy.

This bill has been amended by:

- (1) Clarifying that the Fund is established outside the State treasury;
- (2) Removing provisions relating to the exemption of the Fund from legislative and executive budgetary control;
- (3) Removing provisions specifying the Fund to be apart and separate from the the State treasury and the Public Utilities Commission's special fund; and
- (4) Clarifying that the effective date of this Act is July 1, 1998; provided that the amendments made to sections 36-27 and 36-30 not be repealed when those sections are reenacted on July 1, 2000, pursuant to section 13 of Act 216, Session Laws of Hawaii 1997.

As amended, this bill contains the language in H.B. No. 2702, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2808, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2808, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Tom, Yoshinaga, Aiona and Pendleton.

**SCRep. 922-98            Transportation on S.B. No. 2655**

The purpose of this bill, as received by your Committee on Transportation, is to establish procedures and fees for the transfer of bicycles and mopeds, and for obtaining duplicate certificates of registration.

Your Committee finds that the registration of bicycles and mopeds helps to identify proper ownership when they are stolen.

Your Committee further finds that a biennial renewal of registrations is a burden for owners, as well as for the staff of Departments of Finance at the County level, and that there is no provision for obtaining duplicate certificates of registration should they be lost, stolen or mutilated.

This bill proposes to have the transfer of registrations for bicycles and mopeds follow the procedures established for trailers and to set a transfer fee of \$5; to establish a permanent registration fee of \$10; and to provide for duplicate certificates of registration for a fee of \$5.

Testimony in support of this measure was received from the Department of Finance, City and County of Honolulu.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2655, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Yamane.

**SCRep. 923-98            Transportation on S.B. No. 2339**

The purpose of this bill, as received by your Committee, is to change the category to which mopeds belong. This bill will require moped owners to register and license their mopeds. It also requires that safety inspectors withhold safety stickers and notify the police if vehicle identification numbers are defaced.

Testimonies in support of this measure were heard from the City and County of Honolulu Police Department. The Hawaii Motorcycle Dealers Association testified in support of the measure if mopeds are excluded from insurance requirements.

Testimonies opposed to this measure were heard from Expert International Trading, Inc., Island Moped Rental, Inc., Butch's Mobile Moped Repair, Glenn's Cycle Supply, Progressive Mopeds, The Moped Company, Quik Fix Cycles, Aloha Cycles, and several concerned citizens and several operator owners.

The City and County of Honolulu Department of Finance had no objections to the measure.

Your Committee finds that placing mopeds under the motor vehicle category would require them to obtain no-fault insurance. Moped business owners who testified objected to this requirement because it would make the price of mopeds prohibitive.

Your Committee has amended this bill by deleting sections 1-20 which deals with transferring mopeds from the bicycle category to the motor vehicle category.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2339, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2339, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Yamane.

**SCRep. 924-98            Transportation on S.B. No. 3137**

The purpose of this bill, as received by your Committee, is to require the Public Utilities Commission (PUC) to hold hearings to extend temporary authorities within 120 days of the date of issuing the temporary authority.

Testimony in support of this measure was heard from E Noa Corporation. Testimony opposed to this measure was heard from the Public Utilities Commission. The Public Utilities Commission was opposed to the bill because the mandatory public hearing requirement would place additional demands on the Commission.



Your Committee finds that the PUC may grant a temporary permit for a motor carrier to operate should there be an immediate and urgent need. Your Committee further finds that the granting of a temporary authority could be extended indefinitely to act as a permanent permit.

This bill proposes to require the Public Utilities Commission to hold a hearing within 120 days of the issuance of a temporary authority to operate a carrier service by motor vehicle. At that time the Public Utilities Commission shall decide to further extend the temporary operating authority pending the determination of a properly presented certificate of public convenience and an "immediate and urgent" need for the service.

Your Committee has amended this bill by making technical, non-substantive changes including:

- (1) removing the brackets around the phrase "; provided that if" and removing the period and "If" from Section 1, page 1, line 13;
- (2) adding a period to the phrase "applicable laws, regulations, and instructions" in Section 1, page 1, line 16;
- (3) removing the word "date" from Section 1, page 1, line 17;
- (4) removing the brackets around the phrase "in that event";
- (5) replacing "shall" with "may" in Section 1, page 1, line 18;
- (6) deleting the phrase "at a public hearing held not later than one-hundred-twenty days after the issuance date of temporary authority" from Section 1, page 1, lines 18-20;
- (7) inserting the phrase "the hearing on such motion or request to be held not later than the last day of the expiration date of the granting of temporary authority," in Section 1, page 1, lines 19-20 and page 2, line 1.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3137, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3137, S.D. 1, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee.

**SCRep. 925-98      Health on S.B. No. 2333**

The purpose of this bill is to assign responsibility to the Department of Health (DOH) to assure the availability of emergency aeromedical services throughout the State.

Testifying in favor of this bill were the DOH and Hawaii Air Ambulance. By charging the DOH with responsibility to plan and develop a statewide aeromedical service system, your Committee feels all people in our state will be assured speedy transport for emergency services.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2333, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, McDermott and Ward.

**SCRep. 926-98      Health on S.B. No. 2388**

The purpose of this bill is to allow advanced practice registered nurses to certify that a child has been immunized or physically examined prior to entering school. Current law only allows licensed physicians this responsibility.

Testifying in favor of this bill were the Health Department, Education Department, Hawaii Nurses' Association, Hawaii Chapter of National Association of Pediatric Nurse Associates & Practitioners and Kaiser Foundation Health Plan. Your Committee finds that advanced practice registered nurses have been performing physical examinations for over three decades. These include guidelines for the provision of required immunizations.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2388, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representatives Arakaki, McDermott and Ward.

**SCRep. 927-98      Human Services and Housing on S.B. No. 2804**

The purpose of this bill is to retain the temporary three-year buy-back restriction for purchasers of real property made under the Housing Finance and Development Corporation.

Your Committee finds that the three-year buy-back restriction was reduced from a ten-year requirement under Act 299, Session Laws of Hawaii 1997. That Act amended chapter 201E, Hawaii Revised Statutes, relating to the Housing Finance and Development Corporation. Act 350, Session Laws of Hawaii 1997, however, is scheduled to consolidate all State housing agencies (including the Housing Finance and Development Corporation) under the Housing and Community Development Corporation of Hawaii as of July 1, 1998. In doing so, Act 350 will replace chapter 201E, Hawaii Revised

Statutes, relating to the Housing Finance and Development Corporation, which will in effect eliminate the three-year buy-back revision under Act 299.

Testimony in support of this bill was received from the Housing Finance and Development Corporation.

Your Committee has amended this bill by deleting the current language and replacing it with the language of H.B. 2793.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2804, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2804, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McDermott and Ward.

**SCRep. 928-98 Human Services and Housing on S.B. No. 2812**

The purpose of this bill is to exempt the Villages of Kapolei--a project of the Housing and Community Development Corporation of Hawaii--from having to offer a percentage of single-family units to owner-builders or nonprofit organizations assisting owner-builders in the construction of these units.

Although supportive of owner-builder and self-help housing efforts, your Committee finds that it may not be the most feasible approach in certain housing projects. The Villages of Kapolei housing project was contemplated, designed, and partially built before the enactment of the owner-builder/self-help accommodation requirement.

Testimony in support of this bill was received from the Housing and Finance Development Corporation.

Your Committee has amended this bill by replacing the current language with language from H.B. 2801, H.D. 1. This has resulted in technical, nonsubstantive amendments only.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2812, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2812, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McDermott and Ward.

**SCRep. 929-98 Labor and Public Employment on S.B. No. 2884**

The purpose of this bill, as received by your Committee, is to clarify the wage and hour documentation requirements of contractors who perform public works contracts.

Your Committee received testimony in support of this bill from the Department of Labor and Industrial Relations, the Hawaii Operating Engineers Industry Stabilization Fund, and the Pacific Resource Partnership.

Your Committee notes that this bill is similar to H.B. No. 2866 which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Judiciary.

Your Committee has amended this bill by:

- (1) Deleting the requirement that the request for records to the contractor be in writing; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2884, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2884, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 930-98 Labor and Public Employment on S.B. No. 2999**

The purpose of this bill is to allow the Employees' Retirement System (ERS) to make investments in foreign debt instruments, certain title-holding corporations, and institutional blind pool limited partnerships.

The Administrator of ERS testified in support of this bill.

Your Committee notes that this bill is similar to H.B. No. 3002, H.D. 1, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance. Your Committee also notes that this bill will allow greater investment flexibility for the Board of Trustees of the ERS in making investments.

Upon consideration, your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2999, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2999, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 931-98 Higher Education on S.B. No. 2916**

The purpose of this bill is to authorize the Board of Regents (BOR) to delegate to the President of the University of Hawaii, or the President's designee, the authority to render the final decision in contested case proceedings subject to Chapter 91, Hawaii Revised Statutes (HRS).

Testimony in support of this measure was received from the University of Hawaii (UH).

Your Committee finds that UH participates in the tax refund intercept program, which facilitates the recovery of moneys owed to the State. In 1997, UH intercepted more than 800 tax refunds from debtors who have delinquent financial obligations owed to UH. Each of these debtors is given an opportunity to file an appeal, and may be subject to Chapter 91, HRS. The delegation of authority proposed by this bill will enable BOR to devote more time to policy matters by freeing it from duties that can be handled administratively.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2916 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Santiago and Halford.

**SCRep. 932-98 Agriculture on S.B. No. 3215**

The purpose of this bill is to prevent the importation of harmful animals into the State by requiring the Board of Agriculture (BOA) to establish a panel of experts to develop procedures to determine the pedigree of imported dogs into the State when it is questionable whether the breed or species is a prohibited animal.

The Department of Agriculture (DOA) testified in support of the intent of the bill with regard to establishing a qualified panel to determine the hybrid status of an animal that is suspected to be a prohibited hybrid-cross. However, the DOA objects to allowing the importation of wolf-dogs into the State.

It is your Committee's understanding that the BOA has specifically prohibited the entry of wolf-dog hybrids into the State because of the potentially negative impact on agriculture and public safety. However, since the only definitive way of determining wolf characteristics in an animal is through skull measurements of the dead animal, the next best method is to evaluate physical and behavioral characteristics of the animal. The establishment of a panel of experts with expertise in vertebrate biology will ensure that this requirement is met.

Accordingly, your Committee has amended this bill by:

- (1) Broadening the expertise and purpose of the panel to encompass evaluation of whether an animal is a prohibited hybrid animal, rather than determining the pedigree of the animal;
- (2) Providing that the panel will be used if the DOA questions the lineage of the animal; and
- (3) Making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3215, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3215, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Morita and White.

**SCRep. 933-98 Consumer Protection and Commerce on H.C.R. No. 53**

The purpose of this concurrent resolution is to ensure that patients receiving mental health counseling and professional rehabilitation counseling are being treated by competent counselors by requesting the Auditor to perform a sunrise review of the regulation of professional mental health counselors and professional rehabilitation counselors.

Specifically, this concurrent resolution requests the Auditor to study, assess, and report on the following:

- (1) The probable effects of proposed regulation in S.B. No. 2341, introduced during the Regular Session of 1998, of both mental health counselors and rehabilitation counselors practicing in Hawaii; and
- (2) Whether regulation of mental health counselors and rehabilitation counselors would be consistent with the policies of the State.

Supportive testimony was received by the Hawaii Rehabilitation Counseling Association and numerous individuals.

Your Committee finds that regulation of professional services provides consistent and accountable standards of practice and a manner of recourse in the event that unethical or unqualified treatment is received. Rehabilitation counselors require specialized training to work with persons with disabilities and with injured workers. Mental health counselors provide specialized services for persons with individual, marital, career, or family problems. Both professions treat highly vulnerable and fragile patients.

Your Committee believes that the potential for counselors to harm or abuse current and potential patients requiring mental health or rehabilitative counseling justify further investigation into the effects of the proposed regulation.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 53 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representatives Cachola, Garcia, Tom, Yoshinaga, Pendleton and Whalen.

**SCRep. 934-98      Consumer Protection and Commerce on H.C.R. No. 14**

The purpose of this concurrent resolution is to promote the early-detection of breast cancer and equalize insurance coverage for post-cancer reconstructive surgery by requesting the Auditor to study, assess, and report on the social and financial impacts of requiring health insurers to provide full coverage of all stages of post-mastectomy breast reconstructive surgery, including symmetry operations on the noncancerous breast.

Specifically, this concurrent resolution requests the Auditor to include in the study the following:

- (1) Estimates of the number of persons in Hawaii who have undergone mastectomies each year for the past ten years;
- (2) Of those undergoing mastectomies each year, the estimated number of persons who have sought reconstructive surgery for the undiseased breast;
- (3) Estimates of the number of multiple surgical procedures performed on those who have sought reconstructive surgery and the time period over which these multiple surgeries were sought;
- (4) Actual costs of the initial and each subsequent surgery;
- (5) Side effects and risks associated with each level of surgery; and
- (6) Estimates of the cost-effectiveness and efficacy at each level of intervention.

The Hawaii Medical Service Association testified in support of the mandatory study of the social and financial impact of proposed new mandated benefits and offered amendments for consideration. A concerned individual submitted testimony supporting the concurrent resolution.

Your Committee agrees that the availability of post-mastectomy breast reconstructive surgery will help to restore a significant degree of emotional and psychological wellness to women suffering from breast cancer. In addition, the availability of a positive post-mastectomy treatment option will encourage more women to participate in the early detection of breast cancer.

Upon further consideration, your Committee has amended this concurrent resolution by:

- (1) Removing reference to the reasons subsequent reconstructive surgery might not currently be covered by insurers;
- (2) Reducing the range of the study from the past ten years to the past three years due to the lack of availability of information; and
- (3) Making technical, nonsubstantive revisions for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 14, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.C.R. No. 14, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Garcia, Tom, Yoshinaga, Pendleton and Whalen.

**SCRep. 935-98      Culture and the Arts on H.C.R. No. 129**

The purpose of this concurrent resolution is to request the Office of Tourism of the Department of Business, Economic Development, and Tourism (DBEDT) and the Hawaii Visitors and Convention Bureau to provide additional support and promotion for culture and the arts in their marketing and development of tourism in Hawaii.

Testimony in support of the concurrent resolution was submitted by the Hawaii Museums Association, the Hawaii Consortium for the Arts, and two individuals. DBEDT and the Dean of the School of Travel Industry Management at the University of Hawaii at Manoa submitted testimony in support of the intent of the measure.

Your Committee recognizes the critical importance of culture and the arts to the visitor experience in Hawaii. Unique in all the world, Hawaii's culture and arts attractions can be better promoted to support the visitor industry. In these times of severe fiscal constraints, it is important to build collaborative relationships to support both the visitor industry and the culture and arts community.

The measure has been amended by:

- (1) Adding the assertion that 53 percent of the visitors to Hawaii participate in some historic or cultural activity during their stay;
- (2) Changing from 1998 to 1999 the year in which the report by the Office of Tourism is due; and
- (3) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Culture and the Arts that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 129, as amended herein, and recommends that it be referred to the Committee on Tourism in the form attached hereto as H.C.R. No. 129, H.D. 1.

Signed by all members of the Committee except Representative Takamine.

**SCRep. 936-98      Transportation on H.C.R. No. 27**

The purpose of this House concurrent resolution, as received by your Committee, is to reduce alcohol-related vehicle accidents.

Your Committee finds that many injuries and deaths, resulting from automobile accidents, would be avoided if designated drivers, rather than drivers who have imbibed too much alcohol, assumed responsibility for driving the vehicles. Your Committee also finds that the designated driver concept is not put into practice on a statewide organized basis. Your Committee further finds that establishments serving alcoholic beverages can be instrumental in making their patrons aware that a designated driver program is available, while the customers initiate participation in the program.

Testimonies in support of this measure were received from the Department of Transportation and from Mothers Against Drunk Driving.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 27, as amended herein, and recommends that it be referred to the Committee on Judiciary, in the form attached hereto as H.C.R. No. 27, H.D. 1.

Signed by all members of the Committee except Representative Yamane.

**SCRep. 937-98      Health on H.C.R. No. 75**

This resolution asks the Legislative Reference Bureau to conduct a study:

- (1) assessing the feasibility and economic impact of including acupuncture coverage in the personal injury protection benefits of the motor vehicle insurance law,
- (2) investigating the need, costs, and effects of states that have acupuncture coverage in their motor vehicle insurance law,
- (3) evaluating the social, financial and medical values of acupuncture.

Your Committee received testimony from over a dozen private individuals attesting to acupuncture's effectiveness. Yet health insurance for this treatment is only available under Workmen's Compensation, the Hawaii Management Alliance Association and the Queen's Preferred Plan.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 75 and recommends that it be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Arakaki, McDermott and Ward.

**SCRep. 938-98      Education and Higher Education on H.C.R. No. 70**

The purpose of this concurrent resolution is to request the Department of Education (DOE), the University of Hawaii at Manoa College of Education and College of Natural Sciences, and the Hawaii State Teachers Association to work together to:

- (1) Raise the scientific literacy and competency of students through the establishment of a Resource Center for Science Teaching (Center) that will provide in-service professional development programs in science, for teachers from kindergarten through the twelfth grade;
- (2) Form a committee to develop a plan to finance and implement the Center; and

- (3) Report on the status of this project no later than twenty days prior to the convening of the Regular Session of 1999.

Your Committees received testimony on this measure from DOE, the University of Hawaii at Manoa, and the Hawaii State Teachers Association.

Your Committees find from the testimony presented that there is a critical need to raise the level of scientific literacy and competency of our students and citizens so that they can deal with the rapid advances in technology, medical and health issues and participate in an increasingly technologically driven and scientifically advanced economy and compete successfully for high quality jobs.

Your Committees agree with the concern of DOE about the short timeline to develop a plan to finance and implement the Center. Accordingly, your Committees have adopted the recommendation of DOE and have amended this concurrent resolution to require that the status report to the Legislature be submitted twenty days prior to the Regular Session of 2000.

As affirmed by the records of votes of the members of your Committees on Education and Higher Education that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 70, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 70, H.D. 1.

Signed by all members of the Committees except Representatives Santiago, Takumi, Tarnas and McDermott.

**SCRep. 939-98      Education on H.R. No. 7**

The purpose of this resolution is to request that the Departments of Education (DOE) and Health (DOH) cooperatively establish a sun protection policy for elementary school children, and study the feasibility of requiring that sun screen headgear be worn by these children.

Testimony in support of this resolution was submitted by a physician and by the Hawaii Federation of Physicians and Dentists in conjunction with the Hawaii Medical Association (HFPD/HMA). HFPD/HMA strongly supported this resolution, testifying that Hawaii and Australia have the highest skin cancer and melanoma rates in the world, and that the incidence of melanoma in Hawaii has been increasing dramatically. HFPD/HMA stated that Hawaii should follow Australia's lead in developing a sun protection program, and that such a program would be of vital importance for children, because many studies have demonstrated that those experiencing excessive sun exposure during childhood and adolescence have the greatest risk of developing malignant melanoma later in life.

The Cancer Research Center of Hawaii (CRCH) and DOE testified against the resolution. CRCH believed that Hawaii needs a sun protection program but that the State should not adopt Australia's regulatory program in the absence of research determining the most appropriate program for Hawaii, and Hawaii's population. CRCH testified that its federally funded studies of the problem were not yet complete.

DOE testified that it could not support the resolution because:

- (1) Schools already require that protective measures be taken on field trips and, in some cases, on the playground;
- (2) The Board of Education establishes policy for DOE; and
- (3) DOE lacks the manpower and resources to conduct a study.

Your Committee believes that protecting Hawaii's children from overexposure to the sun would be of great future benefit to the health and welfare of the people of Hawaii, and that prompt efforts must be undertaken to lay the groundwork for this benefit. Your Committee also recognizes that any such program must account for DOE's lack of resources, as well as the fact that additional relevant information will only become available when CRCH completes its studies.

After careful consideration, your Committee has amended this resolution by:

- (1) Requesting the Board of Education to initiate DOE's development of a sun protection program;
- (2) Requesting that DOE consider implementation of its sun protection policy by developing not only a sun protection policy, but also, an education program;
- (3) Deleting the protective sun gear study;
- (4) Deleting the requirement that DOE coordinate its program development with departments and organizations other than DOH; and
- (5) Revising the title of the resolution to read: "HOUSE RESOLUTION REQUESTING THE BOARD OF EDUCATION, THROUGH THE DEPARTMENT OF EDUCATION IN COOPERATION WITH THE DEPARTMENT OF HEALTH, ESTABLISH A SUN PROTECTION POLICY FOR ELEMENTARY SCHOOL CHILDREN AND A SUN PROTECTION PROGRAM TO EDUCATE ELEMENTARY SCHOOL CHILDREN AND THEIR PARENTS".

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee concurs with the intent and purpose of H.R. No. 7, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 7, H.D. 1.

Signed by all members of the Committee except Representatives Santiago, Takamine, Tarnas and Yonamine.

**SCRep. 940-98      Transportation on H.C.R. No. 30**

The purpose of this House concurrent resolution, as received by your Committee on Transportation, is to facilitate further development of international cargo operations at the two international airports in the State of Hawaii.

Your Committee finds that regulations and procedures for the handling of imported cargo at international airports, as enforced by the United States Department of Transportation, hamper cargo transfer cargo transfer activities at the international airports in Hawaii. Your Committee also finds that were greater flexibility in the handling of imported cargo permitted, that carriers could utilize the geographic advantages of Hawaii's location in relation to the Far East more fully; that the special needs of a geographically-isolated island state that is very dependent on air transportation would be accommodated; and that the State's economy would benefit.

Your Committee further finds that international airports in the State of Alaska have been granted greater flexibility in cargo transfer activities, partly because its dependence on air transportation is similar to that at the international airports in Hawaii.

This House concurrent resolution requests the Governor to submit a State of Hawaii application to the United States Secretary of Transportation to authorize foreign air carriers to conduct certain expanded cargo transfer activities at international airports in the State of Hawaii. It also requests support of the Hawaii congressional delegation to facilitate approval of the State's application.

Your Committee received testimony in support of this House concurrent resolution from the Department of Transportation.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 30, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Representative Yamane.

**SCRep. 941-98      Labor and Public Employment on S.B. No. 2934**

The purpose of this bill is to disallow workers' compensation benefits for mental injuries caused by stress resulting from disciplinary actions made in just cause.

The United Public Workers, ILWU Local 142, Liberty House, the Building Industry Association of Hawaii, and the Consumer Lawyers of Hawaii testified in support of this measure.

The Department of Personnel for the City and County of Honolulu, the National Federation of Independent Business, the Haku Alliance, AIA Hawaii State Council, Hawaii Island Contractors' Association, the Day-Lum Rentals & Management, Inc., the Hawaii Farm Bureau Federation, the Willocks Construction Corporation, the Coalition to Reform Obsolete Worker's Compensation Design, the Armstrong Buildings, Ltd., Ono Construction, Inc., the Maui Contractors Association, the Hidano Construction, Inc., the Hawaii Restaurant Association, the Kona-Kohala Chamber of Commerce, the Big Island Business Council, Hon/Hawaii Service, Inc., and members of the public opposed this measure.

The Department of Human Resources, the Hawaii Insurers Council, the Construction Industry Legislative Organization, Inc., the Hawaii Business League, and the Chamber of Commerce of Hawaii, submitted testimony in favor of H.B. No. 2648, H.D. 2.

The State Attorney General, the Department of Personnel for the County of Hawaii, and members of the public commented on this measure.

Your Committee acknowledges that the title of this bill is problematic, as it specifies "just cause"; however, it is the intent of your Committee that this bill serve as a vehicle to facilitate further discussion about disallowing compensation for personnel actions taken in "good faith".

Your Committee notes that this bill is similar to H.B. No. 2648, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

H.B. No. 2648, H.D. 2, was introduced in response to the Hawaii Supreme Court's (Court) decision in Mitchell v. State of Hawaii, 85 Haw. 250 (1997). In Mitchell, the court decided that Mitchell's stress-related mental injury was compensable under Hawaii's Workers' Compensation law, even though that injury resulted from a disciplinary measure taken against Mitchell because of her work-related misconduct. The Court reasoned that the statute expressly provided for compensation of injuries arising out of and in the course of employment, and that Mitchell's injury was compensable in the absence of express statutory authority to the contrary.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2934, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2934, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Hiraki and Takumi.  
(Representative Marumoto voted no.)

**SCRep. 942-98 Consumer Protection and Commerce and Judiciary on S.B. No. 2820**

The purpose of this bill is to provide the Commissioner of Financial Institutions (Commissioner) with necessary and appropriate enforcement powers, including the authority to issue cease and desist orders and to impose administrative fines, against persons other than Hawaii financial institutions and institution-affiliated parties.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

Testimony indicated that this administrative measure will authorize specific enforcement powers for the Commissioner with respect to unlicensed persons, comparable in kind to the powers currently authorized to the Commissioner to enjoin certain prohibited activity by licensed Hawaii financial institutions and institution-affiliated parties. By providing the Commissioner with recourse for violations by unlicensed persons, the department will be better equipped to deter unlicensed activity and assure compliance with the law.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2820 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, Saiki, Tom, Yoshinaga, Aiona, Pendleton and Thielen.

**SCRep. 943-98 Consumer Protection and Commerce and Judiciary on S.B. No. 2841**

The purpose of this bill is to allow the Insurance Commissioner to hire staff attorneys and an insurance examiner who are exempt from Chapters 76 and 77 of the Hawaii Revised Statutes.

Supportive testimony was submitted by the Department of Commerce and Consumer Affairs.

Testimony indicated that the establishment of the civil service-exempt positions will enable the Insurance Division to hire a qualified examiner with insurance experience and to proceed with its reorganization plan that establishes a legal section within the Division.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2841 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, Saiki, Tom, Yoshinaga, Aiona, Pendleton and Thielen.

**SCRep. 944-98 Consumer Protection and Commerce and Judiciary on S.B. No. 2482**

The purpose of this bill is to transfer the responsibility of licensing and regulatory oversight over private massage schools from the Department of Education (DOE) to the State Board for Vocational Education (SBVE).

Supportive testimony was received by the Board of Massage Therapy. The SBVE testified in opposition to the bill. The DOE submitted testimony in support of the intent of the bill with suggestions for amendments.

Although regulation of private massage schools is necessary to protect students and the public, your Committees find that the DOE has not been able to effectively perform these duties. The State Auditor concluded in its Report No. 97-17, Study on the Licensing of Massage Schools, that the SBVE was the most appropriate agency or body to assume regulation of private massage schools.

Upon careful consideration, your Committees have amended this bill by replacing its contents with the language of H.B. No. 3171 H.D. 1., that earlier passed your Committees. As amended, the bill:

- (1) Adds five new sections to Chapter 305A, Hawaii Revised Statutes (HRS) relating to:
  - (a) The definition of "massage schools";
  - (b) Licensure of massage schools;
  - (c) License suspension and revocation procedures;
  - (d) Powers of the SBVE with respect to massage schools; and
  - (e) Penalties for violations of the licensing provisions;
- (2) Amends the title of Chapter 305A, HRS; and
- (3) Transfers the rights, powers, functions, and duties of the DOE relating to the regulation of private massage schools to the SBVE.



As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2482, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2482, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, Saiki, Tom, Yoshinaga, Aiona, Pendleton and Thielen.

**SCRep. 945-98 Consumer Protection and Commerce and Judiciary on S.B. No. 2581**

The purpose of this bill is to prohibit mortuaries, cemeteries, and pre-need funeral authorities from assessing additional fees for perpetual care once a contract has been executed for the sale of cemetery property, interment services, funeral services, or related commodities.

The Department of Commerce and Consumer Affairs (DCCA) submitted testimony in support of the bill. The Hawaii Allied Memorial Council (HAMC) testified in support of the bill and proposed an amendment.

Testimony from the DCCA indicated that complaints have been filed with the Regulated Industries Complaint Office alleging that consumers have been assessed exorbitant fees, ranging from \$1,500 to \$3,500, upon the transfer of a cemetery plot to a family member of the deceased plot owner. These fees are in addition to moneys already paid for perpetual care at the time the plot was purchased, and amount to, in effect, a double charge for the same service. Your Committees find that this measure is necessary to establish an express prohibition against this unfair practice.

HAMC proposed an amendment, supported by the DCCA, that would allow cemeteries, mortuaries, and pre-need funeral authorities to recoup their administrative costs related to the transfer of ownership of interment rights. Your Committees find that authorizing a charge for these administrative costs is reasonable and does not constitute additional fees for the provision of perpetual care. Accordingly, the bill has been amended to provide that:

- (1) A reasonable fee may be charged for administrative costs related to the transfer of ownership of interment rights, including the cost of research, document and file preparation, photocopying, notary fees, records transfer and storage, and any other costs directly related to the transfer of ownership rights;
- (2) The written disclosure required to be provided to purchasers include a disclosure that additional fees may be charged for administrative costs related to the transfer of ownership rights; and
- (3) The current price list required to be provided to prospective purchasers include the price for the service of transferring ownership of interment rights;

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2581, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2581, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, Saiki, Tom, Yoshinaga, Aiona, Pendleton and Thielen.

**SCRep. 946-98 Consumer Protection and Commerce and Judiciary on S.B. No. 2582**

The purpose of this bill is to ensure consumers receive knowledgeable and timely claims service by requiring property and casualty insurers writing direct business in Hawaii to have a complete claims service office in the state or contract with an independent adjusting service.

The Department of Commerce and Consumer Affairs testified in support of the bill. The Consumer Lawyers of Hawaii testified in support of the purpose and intent of the measure and State Farm Insurance Companies commented on the bill suggesting amendments.

Your Committees find that this measure will provide insurance customers protection from out-of-state adjusters who may not have a complete understanding of State laws, including department rules, administrative hearing decisions, and customs. In addition, the absence of a local agent or adjuster to assist claimants often results in delays in the payment of claims or disability payments.

Your Committees have amended this bill by replacing its contents with the substance of H.B. No. 3389, H.D. 1, which was passed out of the House of Representatives after a public hearing before your Committees. H.B. No. 3389, H.D. 1, is similar to S.B. 2582, S.D. 1, except that it also:

- (1) Includes the definitions of "claims service office" and "claims adjusting services"; and
- (2) Extends the effective date of this Act to January 1, 1999, to give insurers additional time to comply.

Your Committees have also incorporated the following amendments:

- (1) Removing the requirement that the claims service office established in the State must be a complete claims service office;
- (2) Clarifying that claims may be processed outside the State; provided that the insurer maintains a claims service office in the State; and

- (3) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2582, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2582, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, Saiki, Tom, Yoshinaga, Aiona, Pendleton and Thielen.

**SCRep. 947-98 Consumer Protection and Commerce and Judiciary on S.B. No. 2835**

The purpose of this bill is to improve the collection of insurance premium taxes by:

- (1) Requiring insurers to file quarterly tax statements with the Insurance Commissioner;
- (2) Replacing the monthly premium tax payment schedule with a quarterly payment schedule;
- (3) Requiring unauthorized insurers and surplus line brokers to pay premium taxes on any life insurance and accident and sickness insurance at the same tax rate as authorized insurers; and
- (4) Revising the fine structure imposed on insurers who are delinquent or fail to pay the required taxes.

The Department of Commerce and Consumer Affairs testified in support of the bill with suggestions for amendments. State Farm Insurance Companies submitted testimony in support of the bill. The Tax Foundation of Hawaii commented on the measure.

Your Committees note that this bill is similar in concept to H.B. No. 2824, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before these Committees and the Committee on Finance.

Your Committees find that the Division's examination branch which processes these documents and payments is severely short-staffed and replacing the monthly filing and payment schedule with a quarterly filing and payment schedule will result in a substantial savings in processing time.

In addition, increasing the fine structure imposed on insurers who are delinquent or refuse to pay the required taxes will discourage insurers from neglecting the required taxes and also increase the amount of revenue generated.

Based on the concerns raised by the Attorney General's office, your Committees have amended this bill by deleting sections 3, 4, and 5 that would have required unauthorized insurers and surplus lines brokers to pay premium taxes and that would have changed the penalties for unauthorized insurers and surplus lines brokers for failure to file statements and remit taxes. Deleting these provisions will avoid a possible constitutional violation.

In addition, your Committees have amended this bill by making technical, nonsubstantive revisions for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection and Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2835, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2835, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hiraki, Saiki, Tom, Yoshinaga, Aiona, Pendleton and Thielen.

**SCRep. 948-98 Consumer Protection and Commerce on S.B. No. 2204**

The purpose of this bill is to expedite the regulatory approval process for State development-related permits, approvals, and licenses, by requiring all state agencies and departments to establish, by rule, maximum time frames for the review and approval for permits, approvals, and licenses under their jurisdiction, and the time frame and form for administrative appeal of those agency or departmental decisions, by December 31, 1999.

In addition, this bill specifies that a quorum to validate any act by a board or commission requires the presence of a majority of nondisqualified members of the board or commission.

The National Federation of Independent Business testified in support of the bill. The Hawaii Association of Realtors testified in support of the intent of the bill and the Department of Business, Economic Development, and Tourism and the Department of Health testified in support of the purpose and intent of the bill and submitted amendments for consideration. Hawaiian Electric Company, Inc., and its subsidiaries, Hawaii Electric Light Company, Inc., Maui Electric Company, Ltd., the Hawaii Business Roundtable, the Land Use Research Foundation of Hawaii, the Estate of James Campbell, the Hawaii Chapter of the Sierra Club, and the Pacific Resource Partnership testified in opposition to the bill.

Your Committee notes that this bill is similar to H.B. No. 2557, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

It is your Committee's understanding that the intent of this bill is to improve the business climate in Hawaii by structuring and simplifying the permit and license approval process by state agencies and departments. Your Committee finds that without a provision granting the automatic approval of applications for permits, licenses, and approvals in the event the time frame established by the state agency or department has expired, the measure does not accomplish its intended purpose.

Your Committee finds that the provisions of H.B. No. 2557, H.D. 2, support this intent with greater clarity and consistency. Accordingly, your Committee has amended this bill by replacing its contents with the language of H.B. No. 2557, H.D. 2.

As amended, this bill:

- (1) Provides a maximum time limit for the review and approval process not to exceed ninety days;
- (2) Removes the definition of an "application for a business or development-related permit, license, or approval";
- (3) Adds a provision for the automatic approval of applications not processed within the specified time frame; and
- (4) Changes the effective date of this Act to be upon approval rather than July 1, 2005.

Your Committee has made an additional amendment to the bill by deleting the provision relating to the establishment of quorum by the members of a board or commission. Your Committee finds that this issue has extensive consequences and requires further discussion to gain adequate approval.

Your Committee acknowledges concerns expressed by opponents of this bill regarding the impact this bill may have on safeguards which protect the environment. In reporting out this bill, it is the intention of your Committee that state agencies and departments should establish time frames for the review and approval of development projects that will allow for adequate consideration of potential environmental impacts.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2204, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2204, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Tom, Yoshinaga, Aiona and Pendleton.

**SCRep. 949-98      Transportation on S.B. No. 2396**

The purpose of this bill, as received by your Committee, is to clarify the distance vehicles have to stop from a loading and unloading school bus and increasing the fine for violating this distance.

Testimonies in support of this measure were heard from the Department of Transportation, the County of Kauai Police Department, the Kauai County Council, the Hawaii Congress of Parents, Teachers and Students, the Keiki Injury Prevention Coalition, Parents for School Bus Pedestrian Safety, and eleven concerned citizens.

Testimony stating support with reservations was heard from the Department of Education.

Your Committee finds that schoolchildren are vulnerable to injury when they are leaving and boarding the bus. Imposing greater fines on drivers who compromise the safety of these children would serve as a deterrent.

This bill proposes to require vehicles to remain stopped not less than 20 feet from a stopped school bus until the flashing signals cease. This bill also increases the penalty for violating this law to \$500.

Your Committee has amended this bill by:

- (1) deleting "highway" and replacing it with "roadway" in Section 1, page 1, lines 3-4;
- (2) deleting the phrase "road in a residential area" in Section 1, page 1, line 4;
- (3) inserting the phrase "upon meeting or overtaking from either direction any school bus which has stopped on the roadway for the purpose of loading or unloading any school children and displays its visual signals, shall bring the vehicle to a complete stop" in Section 1, page 1, lines 5-9;
- (4) deleting the phrase "on the same highway or road in a residential area in the lane occupied by the school bus, and the lane immediately adjacent to the lane occupied by the school bus, regardless of the direction of traffic in that lane, shall stop the driver's vehicle" Section 1, page 1, lines 6-10;
- (5) deleting the brackets around the phrase "before reaching" in Section 1, page 1, line 10;
- (6) deleting the parenthesis around "of this section," Section 2, page 1, line 19;
- (7) inserting the phrase "to allow for pedestrian crossing" in Section 1, page 1, line 11;
- (8) deleting the parenthesis around the comma in Section 2, page 2, line 1;

- (9) deleting the parenthesis around the comma Section 2, page 2, line 1; and
- (10) amending the approval date from "July 1, 1998" to "upon its approval."

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2396, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2396, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Yamane.

**SCRep. 950-98 Human Services and Housing on S.B. No. 3114**

The purpose of this bill is to dedicate fifty percent of the rental housing trust fund for housing loans or grants to persons with incomes at or below thirty per cent of median income.

Your Committee finds that more than one hundred thousand people are either homeless or rely on relatives or friends for housing. Your Committee also finds that while two-thirds of the people with household incomes of less than thirty per cent of median income cannot afford their housing payments, none of the housing projects developed with rental housing trust fund funds reaches this segment of the community. This bill addresses the problems of this gap-group by providing means with which to assist their housing needs.

Testimony in support of this bill was received from the Governor's Special Assistant for Housing, the Legal Aid Society of Hawaii, the American Association of Retired Persons, and two representatives of Catholic Charities. No opposing testimony was received.

Your Committee has amended this bill by changing the measure's effective date to July 1, 1998.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3114, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3114, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 951-98 Human Services and Housing on S.B. No. 3035**

The purpose of this bill is to make housekeeping amendments to clarify the law establishing the Housing and Community Development Corporation.

Act 350, Session Laws of Hawaii 1997, consolidated various housing programs including those under the Hawaii Housing Authority into the Housing and Community Development Corporation. This bill makes housekeeping amendments which include the repeal of remaining parts of chapter 359, which are obsolete, and other technical, non-substantive changes to those provisions. Additionally, this bill clarifies that the Housing and Community Development Corporation of Hawaii ("HCDCH") is subject to the rates and fees approved for the various boards of water supply.

This bill also makes technical changes in order to timely resolve statutory conflicts created by signing of Act 2, Session Laws of Hawaii 1998.

Written testimony in support of this bill was received from the Governor's Special Assistant for Housing. Your Committee received no testimony opposing this bill.

Your Committee believes that the substance of H.B. 3005, H.D. 2 sufficiently allows HCDCH to develop or construct public or semi-public facilities on lands being developed by the Housing Finance and Development Corporation or on State-owned land for the public benefit. Accordingly your Committee has amended S.B. 3035, S.D. 2, by removing the language contained therein, and inserting the language of H.B. 3005, H.D. 2, in its place.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3035, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3035, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives McDermott and Ward.

**SCRep. 952-98 Tourism on S.B. No. 2201**

The purpose of this bill is to implement tourism-related recommendations of the Economic Revitalization Task Force by:

1. Creating a Hawaii Tourism Authority to develop, coordinate and implement state tourism policies, manage the tourism marketing plan, administer the state tourism promotion and marketing contract, and handle other tourism development tasks;
2. Establish the tourism special fund, to receive funds from transient accommodations tax (TAT) revenues and legislative appropriations, to be expended by the authority;

3. Giving the Department of Business, Economic Development, and Tourism responsibility for collection of tourism research;
4. Increasing the TAT rate to 11.5 percent and exempting TAT payers from the general excise tax;
5. Altering the distribution of TAT revenues by directing a portion to the tourism special fund and increasing the amounts for convention center debt service;
6. Extending the repeal of the Convention Center Authority to June 30, 1999; and
7. Providing for time shares to be taxable under the TAT.

Your Committee received testimony as follows:

1. Department of Business, Economic Development, and Tourism, Department of Taxation, one Maui County Councilmember, one Kauai County Councilmember, Ihilani Resort and Spa, Waikiki Health Center, Oahu Visitors Bureau, ILWU Local 142, Hawaii Hotel Association, Visitor Industry Coalition, KPMG Peat Marwick LLP, Outrigger Enterprises, Hawaii Activities and Tours Association, Maui Hotel Association, one concerned citizen, in support;
2. Department of Budget and Finance, City and County of Honolulu Department of the Budget, Dwyer Imanaka Schraff Kudo Meyer and Fujimoto, Cades Schutte Fleming and Wright, Royal Aloha Vacation Club, Kihei Timeshare Owners Association, RCI Hawaii, Lawai Beach Resort, Lifetime in Hawaii, Kona Coast Resort, Prince William Sound Adventures, All Islands Timeshare Resales, Hawaii Audubon Society, 6 concerned citizens, in opposition; and
3. Office of Information Practices, Convention Center Authority, Marriott Vacation Club International, Tax Foundation of Hawaii, Sierra Club, Ala Moana Residents Advisory Council, Neighbors of the Ala Wai, Waikiki Neighborhood Board, Imperial Hawaii Vacation Club, First Hawaiian Bank Waikiki Branch, offering comment.

Your Committee finds that the visitor industry is the single biggest source of private sector income for Hawaii's economy, and its health depends on effective development, marketing and research. The Economic Revitalization Task Force recommended a dedicated source for funding of tourism promotion and marketing and proposed an increase in the TAT rate to seven percent and allocating a portion of the gross revenue to tourism promotion. The Task Force also proposed the creation of a board to handle State tourism-related functions, including administration of the tourism promotion contract.

The economic revitalization of Hawaii depends heavily on the successful operation of the convention center. The Convention Center Authority should continue to exist in order to allow it to oversee the center operator, through the setting of policies, rate structure and performance reviews.

Your Committee revised the bill by removing the substantive contents and adding the following provisions:

1. Creation of a Hawaii Tourism Board composed of nine voting members to develop and implement state tourism policy, develop and maintain the tourism marketing plan, administer the state tourism promotion contract and manage other tourism-related tasks;
2. Establishment of the tourism special fund to receive funds from a portion of the TAT and from legislative appropriations, to be used for the purposes of the Hawaii Tourism Board, provided that no more than two percent shall be used for administrative expenses;
3. Giving the Department of Business, Economic Development, and Tourism responsibility for collection of tourism information;
4. Increase of the general excise tax credit for transient accommodations for television and motion picture productions from six percent to 11.5 percent;
5. Exemption of transient accommodations from the general excise tax;
6. Increase of the transient accommodations tax rate from six percent to 11.5 percent;
7. Alteration of the TAT revenue allocation by setting a maximum amount for the counties, equal to that of fiscal year 1998-1999, and of the remainder, depositing 40 percent into the tourism special fund and depositing into the convention center capital special fund \$20,000,000 in fiscal years 1998-1999 and 1999-2000, and \$40,000,000 in fiscal years 2000-2001, 2001-2002 and 2002-2003, and any remaining revenue into the general fund;
8. Transfer of personnel from the Office of Tourism to the Hawaii Tourism Board;
9. Repeal of the expiration of the Convention Center Authority;
10. Appropriation of \$500,000 for the conduct of tourism research by the department; and
11. Technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2201, S.D. 2, as amended herein, and recommends that

it pass Second Reading in the form attached hereto as S.B. No. 2201, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang and Jones.

**SCRep. 953-98      Legislative Management on S.B. No. 2128**

The purpose of this bill is to clarify that the Hawaii State Ethics Commission (Commission) will only make a frivolous charge determination upon written request of the person charged in a case where the Commission does not issue a final decision or conclusion.

The Commission and Common Cause Hawaii testified in support of this measure.

Your Committee notes that this measure is similar to H.B. No. 2520, H.D. 1, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Judiciary. The only difference between this bill, as received, and H.B. No. 2520, H.D. 1, is wording differentiating between "decision or final conclusion" instead of "final decision and conclusion."

Your Committee has amended this measure by making technical, nonsubstantive revisions to conform to H.B. No. 2520, H.D. 1, which clarifies that the Commission will only make a frivolous charge determination when it does not issue a decision or final conclusion that there has been a violation.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2128, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2128, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Say, P. Oshiro, Ito and Kawanakoa.

**SCRep. 954-98      Legislative Management on S.B. No. 2922**

The purpose of this bill, as received by your Committee, is to:

- (1) Establish a Joint State Capitol Management Committee to manage the State Capitol;
- (2) Transfer functions from the Legislative Auditor to the Legislative Analyst and provide funding for the Office of the Legislative Analyst;
- (3) Appropriate funds for the Public Access Room;
- (4) Appropriate funds for the Joint Legislative Committee on Long Term Care; and
- (5) Require the Legislature to convene a special session in July 1998 after the conclusion of the second quarter meeting of the Council on Revenues.

The Cranial Sacral Therapy Center of Hawaii and several individuals supported the appropriation for the Public Access Room.

The Department of Accounting and General Services and the Department of Land and Natural Resources commented only on the establishment of the Joint State Capitol Management Committee.

Upon further consideration, your Committee has amended this measure by deleting its substance and inserting the contents of H.B. No. 3072, H.D. 1, which passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance. As amended, this measure improves the Legislature's ability to perform its duties by:

- (1) Removing the Legislative Analyst from the Joint Legislative Budget Committee and giving the Legislature as a whole authority to appoint the Legislative Analyst;
- (2) Clarifying the duties and responsibilities of the Legislative Analyst; and
- (3) Making an appropriation to fund the operations of the Office of the Legislative Analyst.

As affirmed by the record of votes of the members of your Committee on Legislative Management that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2922, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2922, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Say, P. Oshiro and Kawanakoa.

**SCRep. 955-98      Ocean Recreation and Marine Resources on S.B. No. 2895**

The purpose of this bill is to allow the Department of Land and Natural Resources (DLNR) to adopt administrative rules relating to aquatic resource regulations that specify bag limits, sales, restrictions, seasons, and regulations on fishing gear.

Your Committee received testimony in favor of this bill from the DLNR, the Hawaii Audubon Society, the Hawaii Boaters Political Action Association, the Hawaii Stream Research Center, a commercial fisherman, and a member of the general public.

Testimony in opposition to this bill was received from several members of the commercial fishing community.

Communication between DLNR and commercial fishers must be improved if proposed regulations or changes in regulations are to be effective. Early involvement of the fishers in developing the proposed rules, prior to going to public hearing will enhance this effort. Your Committee also finds that representatives of the marketing industry must be involved in these discussions.

Your Committee has amended this bill by requiring the DLNR to:

- (1) Consult with representatives of the commercial and recreational fishing community in the development of proposed regulations prior to proceeding with the chapter 91 public hearing process; and
- (2) Submit a report to the Legislature prior to the Regular Session of 2001 that describes and evaluates the consultative process as well as implemented rule changes; and
- (3) A technical, nonsubstantive amendment has also been made to correct a drafting error.

As affirmed by the record of votes of the members of your Committee on Ocean Recreation and Marine Resources that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2895, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Goodenow and Yoshinaga.

**SCRep. 956-98 Labor and Public Employment on S.B. No. 2559**

The purpose of this bill is to remove the Department of Labor and Industrial Relations' (DLIR) responsibility in the permitting of the manufacture, sales, and transport of explosives.

DLIR, the Department of Business, Economic Development, & Tourism, the Construction Industry Legislative Organization, Inc., and members of the public testified in support of this measure. The Contractors Association of Kauai and the COF holders licensed powdermen on the Big Island commented on this measure.

Your Committee finds that the passage of this measure will streamline the permit process by eliminating the overlapping of jurisdictional oversight of explosives and pyrotechnics.

Your Committee notes that this bill is similar to H.B. 3100, H.D. 1, which was passed out of this Committee earlier this session after a public hearing.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2559, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 957-98 Labor and Public Employment on S.B. No. 1465**

The purpose of this bill is to require the Employees' Retirement System to release records of its retirants and beneficiaries to the Hawaii Public Employees Health Fund (Health Fund) for the specific use of disbursing Medicare Part B medical insurance reimbursements.

The Department of Budget and Finance, the Board of Trustees of the Health Fund, and the Hawaii State Teachers Association testified in support of this bill.

Your Committee finds that this measure will allow the Health Fund to electronically process Medicare reimbursements to eligible state and county retirees. The Health Fund's estimated annual savings will be \$14,000 as a result of this bill. This measure will contribute to the Legislature's overall goal of streamlining government operations.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1465 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Takumi and Moses.

**SCRep. 958-98 Labor and Public Employment on S.B. No. 2776**

The purpose of this bill is to clarify the payment process for after-the-fact salary payments for employees who have:

- (1) At least six months employment with the State;
- (2) No paid leave accumulated; and

- (3) Existing salary overpayment balances or had two incidents of leave resulting in salary overpayment within the past six months.

The Department of Human Resources Development, the Department of Accounting and General Services, the Department of Public Safety, and the United Public Workers testified in support of this bill. HGEA/AFSCME Local 152, AFL-CIO and the Hawaii State Teachers Association opposed this measure.

Act 355, Session Laws of Hawaii 1997 (Act 355), set forth guidelines for the recovery of salary overpayments. Although Act 355 addressed the collection of funds already disbursed, it did not prevent new salary overpayments from occurring. Your Committee believes that this measure will reduce salary overpayments from occurring in the future.

Upon further consideration, your Committee has amended this measure by deleting its substance and inserting the substance of H.B. 2760, H.D. 1, which is similar to this bill, but clarifies that if an employee has been working for the State for at least six months and has had at least two incidents of unauthorized leave within the past six months, the employee would be subject to after-the-fact salary payments.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2776, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2776, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 959-98 Labor and Public Employment on S.B. No. 2814**

The purpose of this bill is to decrease the Employees' Retirement System (ERS) annual salary increase assumption for actuarial valuations from four percent to three percent for the years ending June 30, 1997, to June 30, 2000.

The Department of Budget and Finance and the Hawaii State Teachers Association testified in support of this measure. ERS commented on this measure.

Upon further consideration, your Committee has amended this measure by:

- (1) Replacing the annual salary increase assumption of four percent with a variable salary growth assumption rate;
- (2) Specifying that salary assumption rate will be based on the arithmetic average of compensation increases over the latest three-year period for continuing active members of the following three groups:
  - (a) Teachers;
  - (b) Police officers, firefighters, and corrections officers; and
  - (c) All other employees;

and
- (3) Making technical, nonsubstantive revisions.

Your Committee finds that this measure as amended provides a more accurate and fairer assumption for annual salary increases while still being mindful of the State's financial troubles. The Department of Budget and Finance estimates that the State and Counties will realize total savings of \$52,000,000 in fiscal year 2000 as a result of this measure.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2814, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2814, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Moses.

**SCRep. 960-98 Labor and Public Employment on S.B. No. 2817**

The purpose of this bill is to offer health benefits to part-time, temporary, and seasonal or casual employees at no cost to the employer.

The Department of Budget and Finance, the Department of Education, the Board of Trustees for the Hawaii Public Employees Health Fund, the Hawaii State Commission on the Status of Women, the Hawaii Medical Association, and the Hawaii State Teachers Association testified in support of this measure.

Your Committee has amended this bill by deleting its substance and inserting the substance of a similar bill, H.B. No. 3000, which passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Your Committee finds that substantial numbers of part-time, temporary, seasonal, or casual workers have no health insurance unless they are covered through a spouse or a second job. It is in the interest of the Legislature and society as a whole, to maintain and support a healthy population. Routine health care coverage for the majority of Hawaii's people



promotes a healthy State. Your Committee finds that this measure is designed to provide part-time, temporary, and seasonal employees to obtain basic health insurance coverage at no additional costs to public employers.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2817, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2817, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 961-98 Consumer Protection and Commerce on S.B. No. 2346**

The purpose of this measure is to amend Section 431M-4, Hawaii Revised Statutes (HRS), which mandates the inclusion of coverage for the treatment of mental illness and alcohol and drug dependence in health insurance policies. Specifically, the bill amends this section by:

1. Increasing the total number of outpatient visits per year included under covered benefits for the treatment of mental illness, and alcohol and drug dependence from twelve to twenty four;
2. Establishing that covered benefits for mental health treatment shall include a minimum of twelve outpatient visits per year; and
3. Removing the requirement that hospitalization be imminent before inpatient services may be exchanged for outpatient visits.

Supportive testimony was submitted by the Hawaii Medical Services Association, NAMI Oahu, the National Association of Social Workers, Hawaii Chapter, the Equal Insurance Coalition, the Hawaii Psychiatric Medical Association, the Hawaii Psychological Association, the Hawaii Government Employees Association, and a consumer of health care services. Kaiser Permanente supported the bill with an amendment. The Department of Health (DOH) supported the bill with reservations. The Department of Commerce and Consumer Affairs (DCCA) deferred to the DOH on the merits of this bill.

This measure will enable patients who require mental health services to better utilize outpatient mental health services and avoid hospitalization. Furthermore, this measure is anticipated to reduce overall medical costs, particularly for mental health inpatient treatment.

Your Committee has amended the bill by replacing its contents with the language of H.B. No. 3187 H.D. 2, a measure that was earlier passed by your Committee. As amended, this bill:

- (1) Establishes an effective date of July 1, 1998 for the requirement of a minimum of thirty days of in-hospital services per year;
- (2) Requires that the Insurance Division of the DCCA conduct an evaluation of the economic impact of the benefit modifications effected by this measure, and to report the findings of its evaluation to the Legislature prior to the convening of the 2001 session, since it is not the intent of your Committee to increase the cost of health care coverage for employers through an expansion of existing benefits under section 431M-4, HRS;
- (3) Extends the sunset date for section 431M-4, HRS, from July 1, 1998 to July 1, 2002;
- (4) Provides that this Act shall take effect upon June 30, 1998; and
- (5) Makes technical amendments for purposes of style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2346, S.D. 2, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 2346, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Tom, Yoshinaga and Whalen.

**SCRep. 962-98 Consumer Protection and Commerce on S.B. No. 3213**

The purpose of this bill is to enable insurance professionals to better serve their clients by establishing:

- (1) Continuing education requirements as a condition of license renewal;
- (2) The Hawaii Insurance Education Board (Board) to assist the Insurance Commissioner in the administration of the continuing education program; and
- (3) The Insurance Licensing Administration Revolving Fund.

The Hawaii State Association of Life Underwriters supported this measure. The Department of Commerce and Consumer Affairs, submitted testimony in support of this bill with suggested amendments. The Hawaii Independent Insurance Agents Association supported this measure except for the requiring of an assessment fee. The Department of Budget and Finance and State Farm Insurance Companies submitted comments.

Your Committee has amended this measure by deleting its substance and replacing its contents with the substance of H.B. No. 3106, H.D. 1, which was passed out of this Committee earlier this session. H.B. No. 3106, H.D. 1, is similar to S.B. No. 3213, S.D. 2, except that it:

- (1) Does not contain a definition for "credit hour";
- (2) Includes adjusters within the definition of "licensee";
- (3) Provides that one-half of all licensing fees and penalties be deposited into the Insurance Licensing Administration Revolving Fund and the remaining half to the general fund; and
- (4) Does not contain a provision authorizing a one-time assessment fee to supply initial capital to the Insurance Licensing Administration Revolving Fund.

In addition, your Committee has amended this bill to:

- (1) Ensure that continuing education courses for insurance agents are subject to the same standards, reviews, and credits as other continuing education courses;
- (2) Make definitions of "approved continuing education course" and "approved course provider" consistent with the function of the Hawaii Insurance Education Board; and
- (3) Make technical, nonsubstantive amendments for consistency and to correct drafting errors.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3213, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3213, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Saiki, Tom, Yoshinaga, Aiona and Pendleton.

**SCRep. 963-98 Labor and Public Employment on S.B. No. 3000**

The purpose of this bill is to simplify and facilitate the administration, calculation, and processing of pension payments within the Employees' Retirement System (ERS), thus reducing the amount of state and county contributions to the ERS.

Specifically, this bill would:

- (1) Allow the ERS Board of Trustees to delegate service retirement approval responsibilities to staff;
- (2) Establish one type of service-connected disability retirement based on the current occupational disability criteria, provide a benefit based on 50 percent of the member's average final compensation for individuals retiring for service-connected disabilities, and refund all accumulated contributions to a member retiring for a service-connected disability;
- (3) Eliminate partial cash and reduced annuity payment to simplify benefit calculation and reduce the number of semimonthly annuity payments; and
- (4) Make contributory and noncontributory plan provisions consistent by enabling retirants who return to service before July 1, 1998, work for at least three years, and retire again, to have their pensions recomputed as if they are retiring for the first time.

The ERS Board of Trustees submitted testimony in strong support of this measure.

Your Committee notes that this bill is similar to H.B. 3003 H.D. 1, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance. Your Committee has amended this measure by deleting its substance and inserting the contents of H.B. No. 3003, H.D. 1 with technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3000, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3000, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 964-98 Labor and Public Employment on S.B. No. 2454**

The purpose of this bill is to ensure that injured workers are apprised of vocational rehabilitation benefits by:

- (1) Requiring employers to inform injured workers of their rights to vocational rehabilitation;
- (2) Empowering the Director of Labor and Industrial Relations (DLIR) to penalize an employer for failure to inform; and

- (3) Requiring employers to inform DLIR within 120 days from the date of injury as to whether the employee is eligible to participate in vocational rehabilitation.

The ILWU Local 142 and several individuals testified in support of this measure. Several concerned individuals opposed this measure. DLIR, the Rehabilitation Association of Hawaii, the Hawaii Rehabilitation Counseling Association, and several individuals commented on this measure.

Your Committee has amended this bill by adopting DLIR proposed language submitted by DLIR which:

- (1) Deletes the provision that requires employers to notify injured employees within 120 days following the injury of their right to vocational rehabilitation;
- (2) Deletes the associated penalty;
- (3) Allows the Director of DLIR to intervene based on need; and
- (4) Specifies that both the vocational rehabilitation provider and the employee shall, within a reasonable time after initiating services, give proper notice to the employer.

Your Committee finds that vocational rehabilitation is a cost effective program that assists injured workers to return to the active labor force as quickly as possible. This measure as amended, promotes this program by:

- (1) Clarifying the responsibilities of all involved parties (i.e., DLIR, the employee, and the employer);
- (2) Giving injured employees the opportunity to select the provider; and
- (3) Encouraging injured workers and their employers to communicate clearly about these services.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2454, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2454, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Moses.

**SCRep. 965-98      Labor and Public Employment on S.B. No. 3088**

The purpose of this bill, as received, is to immunize employers from civil liability for disclosing information or opinion about a current or former employee to a prospective employer of that employee.

The Hawaii Business League testified in full support of this bill. The Hawaii Nurses' Association testified that it, too, would support the bill if certain amendments were made. The Hawaii Hotel Association, the Healthcare Association of Hawaii, and the Retail Merchants of Hawaii testified that while they support the general intent of the bill, they are concerned about the "notification provision" contained therein.

The Hawaii Civil Rights Commission and an individual testified in opposition to this bill. The Department of Human Resources Development, the Judiciary, and the Chamber of Commerce of Hawaii also testified in opposition to this bill, and further testified that the House version (H.B. No. 3529) of the bill is preferable. Liberty House and the National Federation of Independent Business testified that while they support the intent of this bill, they, too, prefer the House version of the bill.

Your Committee notes that this bill is indeed similar to H.B. No. 3529 which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Judiciary.

Your Committee recognizes the need to protect employers who, in good faith, provide candid information about former employees to prospective employers. Such protection is essential to ensure that employers in the employment process are able to provide and receive relevant information about current and former employees without the fear of a potential lawsuit.

After much discussion, however, your Committee finds that it has several specific concerns with the language of this bill.

First, your Committee is concerned that the language too narrowly limits job performance information that a current or former employer can provide. The bill appears to limit job performance information to:

- (1) Information that is strictly related to job performance; and
- (2) Information that is "truthful, fair and unbiased."

This standard may not allow an employer to provide an opinion as well as information regarding job performance. In addition, the standard may increase, rather than decrease, litigation.

Second, your Committee feels that the language referring to qualified immunity is not necessary.

Third, your Committee does not feel that employers should be required to provide written notification to current or former employees at the time job references are transmitted to prospective employers. Your Committee feels that such notification is not only unnecessary, but administratively burdensome as well.

Fourth, your Committee feels that the level of evidence for the good faith disclosure presumption should be raised from a "preponderance of the evidence" standard to a "clear and convincing" standard. If the standard is not raised, employers will still feel that they may be subject to civil liability for providing job reference information, and these feelings may prevent the flow of necessary information.

Finally, your Committee feels that the provision stating that a good faith presumption is rebuttable upon a showing, by a preponderance of the evidence, that the disclosed information was knowingly false, deliberately misleading, disclosed for a malicious purpose, disclosed in reckless disregard for its falsity or defamatory nature, disclosed without notice to the employee, or was violative of specified rights, collective bargaining agreements, laws, or otherwise contrary to public policy is not necessary. Instead, your Committee feels that a good faith presumption need only be rebuttable upon a showing that the disclosed information was knowingly false or deliberately misleading.

Accordingly, your Committee has amended this bill by deleting the substance and inserting the language reflected in H.B. No. 3529, language that reflects the above concerns.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3088, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3088, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Moses.

**SCRep. 966-98      Human Services and Housing on S.B. No. 2744**

The purpose of this bill, as received by your Committee, is to require the Department of Human Services (DHS) to establish and administer specialized foster homes for minors who are victims of domestic violence.

The Hawaii State Coalition Against Domestic Violence and the Family Crisis Shelter submitted testimony in support of the intent of this measure with reservations. DHS and Child and Family Service opposed this measure. The Hawaii State Commission on the Status of Women, the YWCA of Oahu Women's Resource Center, the Honolulu County Committee on the Status of Women, the Keiki Injury Prevention Coalition, and Hale Ola Windward Abuse Shelter submitted testimony in opposition to this measure and recommended that this measure be amended back to its original version.

Your Committee recognizes the controversy surrounding which type of shelter would be the most appropriate for minors who are domestically abused. DHS contends that the more appropriate place for adolescents to be sheltered is not the domestic violence shelter, which serves battered women and their children, but the youth shelters. DHS notes that adolescent victims of domestic abuse are likely to have additional problems that youth shelters are equipped to handle. In addition, youth shelter staff members can be trained in the dynamics of domestic abuse and appropriate referrals for the victim.

The Hawaii State Coalition on the Status of Women, domestic abuse shelters, and community groups contend that there are no options available to quickly and adequately address the safety needs for minors who are domestically abused in the form of abuse shelters, particularly during the forty-eight hours following an incident, the most intensely dangerous time for a victim. Furthermore, these groups feel that domestic violence shelters are uniquely qualified to assist domestic violence victims of any age. Their location is typically unknown in the community, and victims and parents view them as appropriate providers of domestic violence-related services.

Your Committee understands that the above-mentioned groups and DHS have been working together to settle their differences, and that this proposed measure is an attempt at some form of compromise. Unfortunately, testimony indicates that this measure, as received, does not adequately address the means of protecting minors who are victims of domestic violence.

Thus, after careful consideration and much deliberation, your Committee has amended this measure by deleting its substance and inserting the substance of H.B. No. 2569, H.D. 1. As amended, this bill creates a pilot program allowing domestic violence shelters to accept unaccompanied minor teens who are victims of domestic violence. Your Committee has also amended this measure by requesting DHS, instead of the Legislative Auditor, to submit a report on the effectiveness of this pilot program.

Your Committee believes that adolescent victims of domestic violence is an important issue that needs resolution, and finds that this measure now provides options to youth. Your Committee finds that placement in domestic violence shelters is temporary and will be used only for emergency situations, but must acknowledge that youth should go to the most appropriate shelter to best meet their needs. Furthermore, your Committee finds that the exemption of licensing domestic violence shelters as child care providers is to enable, not mandate, willing and able domestic violence shelters to provide access for youth in need of emergency care.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2744, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2744, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative McDermott.

**SCRep. 967-98 Human Services and Housing on S.B. No. 2874**

This is an administrative housekeeping bill in which its purpose is to clarify the Department of Human Services' role in chapter 346, Hawaii Revised Statutes.

The Department of Human Services submitted testimony in support of this measure.

Your Committee finds that this bill is necessary for clarification purposes, and also firmly believe that action must be taken to ensure the safety of abused and neglected children. Your Committee further finds that another provision may be added to assure that a child's safety is paramount, and has amended this measure by:

- (1) Adding language into subsection (2), Section 346-14, Hawaii Revised Statutes, to state that the priority objective of child welfare services is the safety and health of the child; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2874, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2874, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Lee.

**SCRep. 968-98 Human Services and Housing on S.B. No. 2879**

The purpose of this bill is to update the statute which addresses the Medicaid financed home and community based waiver programs and to repeal references to the non-medicaid programs which have not been funded by the State since 1994.

The Department of Human Services submitted testimony in support of this measure.

Your Committee finds that this is an administrative housekeeping measure which is necessary to align state law with current federal requirements.

Your Committee is constantly faced with the dilemmas and challenges regarding long term care, and has always given careful consideration to this ongoing issue. Furthermore, your Committee would like to add provisions to this bill, and, therefore, has amended this measure by:

- (1) Adding the contents of H.B. No. 1651, H.D. 1 which allows up to a \$50,000 income tax deduction from gross income equal to the applicable percentage of the amounts paid for "qualified long-term care services" and "qualified long-term care insurance contracts" used for long-term health care needs of the resident taxpayer, spouse, or dependent; and
- (2) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2879, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2879, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Lee.

**SCRep. 969-98 Energy and Environmental Protection on S.B. No. 1122**

The purpose of this bill is enable certain development projects to proceed in a more timely manner by shortening the review process for obtaining a noise permit.

This bill reduces the period in which the Department of Health (DOH) is required to approve or reject a noise permit application, modification, or renewal from one hundred eighty days to thirty days, except for those applications which the Director of Health (Director) deems are subject to public informational meetings, hearings, or notices.

The DOH testified in support of this bill and noted that the bill's objectives may also be accomplished administratively. The Hawaiian Electric Company and its subsidiary utilities, Maui Electric Company and Hawaii Electric Light Company, recommended that a cap be placed on the time for processing noise permits which go to public comment or notice. The Hawaii Operation Engineers Industry Stabilization Fund offered an amendment, and Hawaii's Thousand Friends opposed this measure.

Your Committee has amended this bill by:

- (1) Extending to ninety days the period for the Director to act on applications which require a public informational meeting, hearing, or notice;
- (2) Allowing the Director to extend the ninety-day period by an additional ninety days for applications in which extraordinary circumstances exist; and

- (3) Specifying that if the Director fails to act within one hundred and eighty days on applications of extraordinary circumstances, the application shall be deemed approved.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1122, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1122, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Goodenow, Garcia and Tarnas.

**SCRep. 970-98 Energy and Environmental Protection on S.B. No. 2852**

The purpose of this bill is to strengthen the Voluntary Response Program (VRP) by:

- (1) Making sites involving underground storage tanks eligible to be cleaned up under VRP;
- (2) Providing an exemption from future liability for subsequent purchasers of the property;
- (3) Allowing the Department of Health (DOH) to consider all departmental actions concerning the site in denying a VRP application;
- (4) Eliminating significant public interest as a disqualifying factor in the consideration of an application for a voluntary response action;
- (5) Invalidating the liability exemption if it could be reasonably concluded that transactions were made by the owner for the purpose of avoiding liability;
- (6) Requiring public notification of a voluntary response action by posting a sign on the property and by including a summary of the application in the Office of Environmental Quality Control bulletin; and
- (7) Denying uncooperative parties in enforcement actions from the use of voluntary response actions.

DOH, the Mortgage Bankers Association of Hawaii, the Bank of Hawaii, and the Sierra Club, Hawaii Chapter testified in support of this measure.

Upon further consideration, your Committee has amended this measure to conform to H.B. No. 2849, H.D. 1, which was reported out earlier by your Committee. The net effect is that these amendments:

- (1) Delete the public notification requirements;
- (2) Clarify that the public benefit to be derived from the cleanup includes environmental improvement and economic development;
- (3) Delete the provision requiring DOH to deny a voluntary response action for uncooperative parties involved in an enforcement action; and
- (4) Delete the provision that invalidates the liability exemption if transactions were made to avoid liability.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2852, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2852, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Goodenow, Garcia and Hamakawa.

**SCRep. 971-98 Health on S.B. No. 2460**

The purpose of this bill is to ensure that the benefits communities derive from their nonprofit hospitals will not be lost by the sale of a nonprofit hospital to a for-profit corporation by mandating that the State Health Planning and Development Agency (SHPDA) and the Attorney General review and approve the sale and acquisition of nonprofit hospitals.

The Healthcare Association of Hawaii, the Hawaii Nurses' Association, the Hawaii Coalition for Health, and the Hawaii Government Employees Association submitted testimony in support of this measure. SHPDA submitted testimony in support of the intent of this measure. The Department of the Attorney General submitted comments.

Your Committee finds that a nonprofit hospital is a resource that belongs to the community. It exists for the benefit of the community and has been granted tax-exemption for that purpose. Therefore, your Committee finds it appropriate that the community, as represented by SHPDA and the Attorney General, should be able to examine, and approve or disapprove, a proposed sale of a nonprofit hospital to a for-profit corporation.

Your Committee is cognizant of the concerns raised by the Attorney General that the proposed section 323D-J may create legal problems because the standards of compliance "with commitments which inure to the public interest" are not described in the bill. Your Committee requests that the Attorney General submit language to provide for standards of compliance so subsequent committees may consider these proposed amendments.

- (1) Changing the chapter title to read: "NONPROFIT HOSPITAL SALE";
- (2) Deleting the definition of "nonprofit hospital";
- (3) Defining "hospital" as defined in applicable rules of the Department of Health;
- (4) Clarifying that if the Attorney General reviews an application, the Attorney General must approve or disapprove the acquisition within 90 days after receiving the application;
- (5) Specifying that SHPDA will hold a public hearing without prior consultation from the Attorney General;
- (6) Mandating that SHPDA adopt rules establishing appeal procedures to the reconsideration committee for procedures similar to those for appeals of health care certificate of need decisions;
- (7) Deleting the provision that a review of the application be granted if both SHPDA and the Attorney General approve; and
- (8) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2460, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2460, S.D. 2, H.D. 1, and be referred to the Committees on Consumer Protection and Commerce and Judiciary.

Signed by all members of the Committee except Representatives Arakaki, McDermott and Ward.

**SCRep. 972-98      Health on S.B. No. 2640**

The purpose of this bill, as received by your Committee, is to streamline government by:

- (1) Repealing Chapter 457G, Hawaii Revised Statutes, the regulatory scheme for occupational therapists; and
- (2) Instituting a simple registration system in place of regulation.

A number of individuals submitted testimony in opposition to this measure. The American Association of Retired Persons submitted comments.

Upon further consideration, your Committee has amended this measure by deleting its substance and inserting the substance of H.B. No. 1099, H.D. 2 with several technical, nonsubstantive amendments.

As amended, this bill proposes to establish a regulatory scheme for occupational therapists that requires licensure by DCCA before a person can use the title "occupational therapist". The licensing program:

- (1) Establishes the program's administration within the office of the Director of DCCA (Director);
- (2) Provides for licensure exemptions;
- (3) Establishes licensing requirements including a college degree from an accredited occupational therapy program and passage of an exam administered by the National Board for Certification in Occupational Therapy;
- (4) Provides for licensure by endorsement;
- (5) Establishes license renewal requirements and provides for fees to be established by administrative rule;
- (6) Authorizes the Director to deny, suspend, or revoke a license;
- (7) Establishes prohibited acts and penalties;
- (8) Authorizes the use of occupational therapy support personnel acting under the supervision of a licensed occupational therapist;
- (9) Exempts Department of Health's occupational therapists employed in a civil service position from the licensing requirements for twelve months from the effective date of the licensing program; and
- (10) Establishes a requirement of 960 hours of clinical practice in occupational therapy services verified by a licensed health care professional.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2640, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2640, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Arakaki, McDermott and Ward.

**SCRep. 973-98      Health on S.B. No. 3248**

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist The Queen's Health Systems in improving and expanding its health care facilities and programs.

The Queen's Health System submitted testimony in support of this measure.

The authorization to issue special purpose revenue bonds is found in part II of Chapter 39A, Hawaii Revised Statutes, to assist not-for-profit corporations that provide health care facilities to the general public. This bill authorizes bonds in an amount not to exceed \$150,000,000 for The Queen's Health Systems and its subsidiaries.

Your Committee has amended this measure by:

- (1) Clarifying that the authorization is in addition to any special purpose revenue bonds authorized under any other Act for the purpose of assisting The Queen's Health Systems and its subsidiaries;
- (2) Lapsing the authorization to issue special purpose revenue bonds on June 30, 2003; and
- (3) Making technical, nonsubstantive revisions for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3248, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3248, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, McDermott and Ward.

**SCRep. 974-98      Energy and Environmental Protection on S.B. No. 379**

The purpose of this bill is to establish a mandatory statewide recycling program for commercially generated newspaper, office paper, and corrugated cardboard.

Your Committee received testimony from the Department of Health, the City and County of Honolulu Department of Public Works, the Maui County Department of Public Works and Waste Management, and the Maui County Council's Economic Development and Environment Committee.

After due consideration, your Committee has amended the bill by replacing its contents with provisions that provide incentives for the recycling of automobile tires. The bill requires a tire retailer to collect a \$10 deposit from customers that do not provide a trade-in tire at the time of a purchase. The bill also requires the retailer to issue a \$10 refund to customers who return a tire purchased from that retailer with proper proof of purchase. Finally, the bill requires the retailer to post a notice (specific language is provided in the bill) regarding the collection of the \$10 deposit.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 379, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 379, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Goodenow, Garcia and Hamakawa.

**SCRep. 975-98      Energy and Environmental Protection on S.B. No. 2349**

The purpose of this bill is to change certain provisions concerning the Department of Health's environmental health program enhancement and education fund.

The bill makes the fund and its dedicated funding mechanisms permanent, expands the purposes of the fund, and changes the name of the fund to the "environmental health education fund".

Specifically, this bill expands the purposes for which moneys in the environmental health education fund are to be expended by including the provision of consultations and educational programs to industries regulated by the Department of Health.

Your Committee received testimony strongly supporting the bill from the Department of Health and the Hawaii Restaurant Association.

Your Committee believes that the changes made by the bill will enable the Department of Health to fulfill its legal mandates to implement: (1) the State's food safety consultative and education program; (2) costly revisions to the Hawaii Administrative Rules to comply with the United States-Model Food Code and to operate the Advisory Council on Food Protection Practices; and (3) mandated education and public outreach activities to assist the counties regarding noise pollution and control.

Upon further consideration, your Committee has amended this bill by adding to this bill the contents of H.B. 3407 and H.B. 3621, H.D. 1. The original contents of this bill are retained as Part I of the bill.

The contents of H.B. 3407 are added as Part II of the bill. Part II creates the public-private Hawaii Strategic Environmental Task Force, headed by the Director of Business, Economic Development, and Tourism, to develop a project proposal for matching-grant funding from the CSG-US/AEP State Environmental Initiative program for the long-term transfer of environmental technology to a selected Asian-Pacific nation or territory.



The contents of H.B. 3621, H.D. 1 are added as Part III of the bill. Part III expands the functions of the Air Quality Advisory Task Force created by Act 146, Session Laws of Hawaii 1997. The mission of the Task Force is to advise the Department of Health and the Legislature on improving air quality as residential density increases and new industrial facilities are required to provide needed services to the community. The Task Force was required to conduct an assessment of the air quality at Campbell Industrial Park and Kahe Valley on Oahu and to determine the air quality impacts of emission sources in these locations. Part III expands the scope of the Task Force by requiring:

- (1) The application of best available control, reasonably available control, and maximum achievable control technology standards to the study of existing air quality limitations; and
- (2) The identification of the most efficient way to reduce air emissions while allowing for economic growth.

Part III also adds representatives from the Department of Business, Economic Development, and Tourism to the Task Force to enable the Task Force to more fully address the relevant economic development issues.

Your Committee has also made technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2349, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2349, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Goodenow, Garcia and Hamakawa.

**SCRep. 976-98      Labor and Public Employment on S.B. No. 2222**

The purpose of this bill is to:

- (1) Delete President's Day, Admission Day, and Good Friday as state holidays;
- (2) Reduce the amount of vacation leave which public employees are entitled;
- (3) Make across-the-board salary reductions for all State employees;
- (4) Amend the collective bargaining law to authorize emergency legislation affecting public employees;
- (5) Provide severance pay benefits and early retirement for terminated State government workers; and
- (6) Extend employee protections for furloughs through fiscal year 1999-2000.

For the purposes of the public hearing, your Committee circulated a proposed H.D. 1 version that deleted the provisions of the bill and inserted new language to authorize a voluntary furlough of all public employees during fiscal year 1998-1999.

The Department of Budget and Finance and the HGEA/AFSCME Local 152 opposed this measure. The Judiciary commented on this measure in oral testimony.

Your Committee finds that the State is faced with a severe budget crisis with limited prospects of an immediate infusion of revenue to cover anticipated budget shortfalls. A limited voluntary furlough of public employees is one method of dealing with the State's budget crisis. Your Committee finds that the voluntary furlough program is a palatable alternative to any program of employee layoffs or termination.

Additionally, your Committee notes that an interim and temporary furlough program should not alter or affect existing laws that define rights, privileges, and obligations of public employees and employers in matters of collective bargaining.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2222, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2222, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hiraki.

**SCRep. 977-98      Transportation on S.B. No. 1196**

The purpose of this bill is to amend reconstructed vehicle provisions by:

- (1) Repealing reconstructed vehicle safety inspection and approval requirements; and
- (2) Exempting official inspection stations from liability from damages or injuries caused by reconstructed vehicles.

The Department of Transportation, the Department of Finance of the City and County of Honolulu, Carr's Insurance Agency, Lowriders Pride Car Club, Sonic Motorsports, Motorsports Education & Safety Coalition, Hypersports, Inc., the Sled Shop, Inc., and others supported this measure.

The Honolulu Police Department, Maui Off Road Center, Hawaii Automotive Repair & Gasoline Dealers Association, Palolo Auto Service, Quality Tire & Auto Centers, Inc., Lionel's Unocal Service, Hawaiian Jiffy Inc., Shige's Service

Station, Legislative Information Services of Hawaii, Hon/Hawaii, John & Debi Auto Repair, Inc., J&J Auto Repairs, Inc., Ota's Union Service, Kahala Shell Auto Care, Inc., YBJ, Inc., Fairway Service Station, Aikahi Park Chevron, Mel's Sunrise Chevron, and many individuals opposed this measure.

Several individuals commented on this measure.

Your Committee finds that the City and County of Honolulu is the only county that is required to inspect privately-owned reconstructed vehicles under section 286-85, Hawaii Revised Statutes. Because of this limitation, a reconstructed vehicle may be legally driven on Neighbor Islands roads and highways, but may not be legally driven in the City and County of Honolulu.

The only thing assuring the safety of a reconstructed vehicle on the Neighbor Islands is the periodic motor vehicle inspection program (PMVI) or the safety inspection law. Safety inspection stations are required under PMVI rules to fail a vehicle that has replacement equipment items not meeting the manufacturer's requirements of the original equipment on the date of manufacture of the vehicle.

Even though many modifications may be made using after-market parts that are as safe or safer than the original manufactured equipment (OME), the reconstructed vehicle may be rejected by a safety inspector because of PMVI requirements. On the other hand, there are many vehicle enthusiasts who reconstruct their vehicles without taking adequate safety precautions, without engineering knowledge of the crash design of the vehicle, or in a manner creating an unsafe vehicle for highway use.

Your Committee finds that without reconstruction vehicle requirements, there would be three categories of vehicles:

- (1) Vehicles designed by the manufacturer to meet federal safety standards;
- (2) Modified vehicles using non-OME parts that pose little or no safety hazard; and
- (3) Vehicles that are modified without regard for safety, including vehicles that are raised, are lowered, have oversized wheels and tires, and pose a major threat to other drivers using Hawaii's highways.

Although it appears that reconstruction vehicle provisions have reduced the number of unsafe reconstructed vehicles on Oahu's roads and highways, there have been complaints that safety inspectors conducting reconstruction inspections do not have the knowledge necessary to determine the safety of the vehicle based on structural integrity and engineering. Moreover, since reconstructed vehicle owners are much like special interest vehicle owners, perhaps they should be treated similarly. Specifically, the owners of reconstructed vehicles, and not the safety inspection stations, should be accountable for any personal or property damages resulting from reconstructed vehicles.

Based on the foregoing, your Committee finds that the law governing reconstructed vehicles should be uniform throughout the state to ensure consistency and fairness. At the same time, in recognition of the importance of maintaining safe driving conditions on Hawaii's roads and highways, your Committee finds that it must proceed cautiously before enacting any changes to existing reconstructed vehicle provisions.

In recognition of the complexities involved, your Committee intends to delay any amendments to the law affecting reconstructed vehicles until it has been given an opportunity to carefully consider the impacts on highway safety and related factors. Therefore, your Committee has amended this measure by deleting its substance and inserting provisions that would establish a task force to study the impact of the repeal of reconstructed vehicle requirements on highway safety and other related factors.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1196, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1196, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Takumi, Case and Yamane.

**SCRep. 978-98      Public Safety and Military Affairs on S.B. No. 3230**

The purpose of this bill, as received by your Committee, is to establish a Kau Prison Planning Commission (Commission) that would represent the interests of the residents of the Kau district and the island of Hawaii in State planning and design of a prison at Kau. The bill identifies, and provides the Commission with authority to negotiate agreements with the State on a number of community interests potentially affected by prison construction and operation. The Commission would also have authority under the bill to approve or reject State construction, leasing, and supplemental agreements related to the Kau prison.

Your Committee received testimony from an economist in the private sector in support of the measure. The Department of Public Safety testified in opposition to the bill.

Your Committee feels that it would be premature to establish a commission with authority over the proposed Kau prison, yet believes that there is a need to provide a mechanism by which community interests and concerns regarding prison development can be identified and addressed. Accordingly, your Committee has amended this bill by removing its contents and replacing them with the provisions of H.B. No. 2535 H.D. 1, which amends section 353-16.3, Hawaii Revised Statutes, that is generally applicable to state development of prison facilities. Among other amendments, H.B. No. 2535 H.D. 1, contains form and content guidelines for prison development proposals and limits the requirement that the Legislature approve agreements negotiated under the section, to those agreements that are effective for a period greater than five years.

Your Committee has made technical, nonsubstantive amendments to the text of H.B. No. 2535 H.D. 1, for purposes of style and clarity.

Recognizing that public input is essential to successful prison development and operation, your Committee has also included language from section 3 of S.B. No. 3230 S.D. 1, which identifies a number of community interests potentially affected by prison development. Your Committee has made this language generally applicable to all new correctional facilities, and has added provisions establishing a Prison Planning Advisory Committee for the purpose of providing recommendations to the state concerning the community impacts of a new correctional facility. This committee has been made advisory in response to the testimony of the Director of Public Safety who was concerned that a body with decision-making authority would unduly tie the hands of the State.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3230, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3230, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Jones.

**SCRep. 979-98      Judiciary on S.B. No. 2025**

The purpose of this bill is to exempt the adoption of lists of conditionally-approved, restricted, and prohibited animals and microorganisms, and restricted and prohibited plants from the public notice and public hearing requirements of the Hawaii Administrative Procedure Act; provided that the Department of Agriculture develops alternative methods for public input and notification.

The Board of Agriculture, the Hawaii Agriculture Research Center, Hawaii Biotechnology Group, Inc., the Hawaii Aquaculture Association, Hawaiian Marine Enterprises, Mangrove Tropicals, Cyanotech Corporation, and a member of the public testified in support of the bill.

Your Committee finds that this measure would provide a mechanism to expedite the process of introducing plants, animals, and microorganisms into the State. Your Committee believes that this will address the needs of agricultural and aquacultural businesses while retaining the necessary safeguards needed to protect Hawaii's unique ecosystem and the health and safety of its residents.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2025, S.D. 2, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Herkes, Hiraki, Yoshinaga, Pendleton and Thielen.

**SCRep. 980-98      Judiciary on S.B. No. 632**

The purpose of this bill is to establish a three-year demonstration project on state or county roads in the city and county of Honolulu for the implementation of photo speed detector and photo red light imaging systems.

The Department of Transportation, Honolulu Police Department, Chamber of Commerce of Hawaii, Koolauloa Neighborhood Board, Hau'ula Community Association, and several concerned individuals and companies testified in support of the intent of this bill and of a similar bill, H.B. No. 2430 H.D. 1, which this Committee has passed.

The Judiciary and Office of Information Practices took no position on the bill but recommended that the language of a similar bill, H.B. No. 2430, H.D. 1, as it relates to decriminalized traffic procedures, presumptions, penalties, and informational practices, replace the corresponding provisions in this bill.

Your Committee finds that technology, particularly photo speed detector and photo red light imaging systems, can alleviate the growing problems of speeding and disregarding red lights on Oahu. These systems protect lives, and, because they do not require a lot of manpower, free up police officers to handle other problems.

This bill allows the City and County of Honolulu to contract with private companies to implement these systems during a three-year demonstration period. The County will issue interim and final reports to the Legislature documenting the effectiveness of the project, which the Legislature can use to determine the feasibility and desirability of expanding these systems to other counties.

This bill, as received by your Committee, limited this project to County highways. However, the testimony at the hearing revealed a need to expand these systems to State highways as well. For example, Kamehameha Highway, notorious for its number of fatal traffic accidents, is a State highway that should be covered by this bill.

Furthermore, the Judiciary testified that this bill should conform with "decriminalized" traffic procedures and recommended that this Committee use the language of H.B. No. 2430, H.D. 1.

Finally, the Office of Information Practices raised concerns regarding confidential driver's license or motor vehicle registration records and suggested that this bill conform to the Uniform Information Practices Act, chapter 92F, Hawaii Revised Statutes, other statutes, and rules established by the Department of Transportation. The Office of Information Practices suggested that the language of H.B. No. 2430, H.D. 1, which passed out of this Committee, replace the corresponding provisions limiting the use of confidential data.

Accordingly, your Committee amended this bill by:

- (1) Adding State highways to the demonstration project;
- (2) Changing the word "radar" to "speed detector" and deleting the requirement in section two that the unit only take pictures of those vehicles exceeding the speed limit by at least fifteen miles per hour;
- (3) In section four, deleting the limitation that the photo speed detector system be confined to streets in residential areas or school zones;
- (4) In section five, reducing the time period for the contractor to issue only warning notices from thirty to fourteen days;
- (5) In section nine, replacing the term "rebuttable presumption" with "prima facie evidence" and allowing the court to assess the credibility of the registered owner's rebuttal by changing the phrase "shall be rebutted" to "may be rebutted;"
- (6) In sections seven, nine, ten, and eleven, conforming the procedures for responding to citations or summons with chapter 291D, Hawaii Revised Statutes;
- (7) In section twelve, removing the provision that increases fines for violations to offset costs paid to the private contractor;
- (8) In sections fourteen, twenty, and twenty-one, limiting the contractor's use of confidential data by specifying that only the registered motor vehicle owner's name and address will be disclosed, that this data shall only be used as necessary to carry out the provisions of the contract and purposes of the Act, and that all data shall be returned to the county at the end of the contract;
- (9) Including a new section fifteen which imposes a fine of not more than \$500,000 on contractors for unauthorized disclosure of confidential information;
- (10) In section eighteen, making the Attorney General, rather than the Insurance Commissioner, responsible for determining an adequate plan of insurance;
- (11) Deleting sections twenty and twenty-three of the original bill; and
- (12) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 632, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 632, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Jones, Menor and Yoshinaga.

**SCRep. 981-98      Judiciary on S.B. No. 1559**

The purpose of this bill is to authorize the Department of Health to establish and implement a lead abatement program.

The Department of Health testified in support of this bill.

This bill, which adds a new section to the Hawaii Revised Statutes concerning lead abatement, contains language that is very similar to chapter 342P, relating to asbestos abatement. Your Committee suggests that it would be more economical to add lead to the existing asbestos statutes rather than enact an entirely new section. The Department of Health concurs.

Therefore, your Committee has amended this bill by including its provisions in chapter 342P, Hawaii Revised Statutes, and making technical, nonsubstantive revisions for the purposes of consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1559, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 1559, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Yoshinaga.

**SCRep. 982-98      Judiciary on S.B. No. 2987**

The purpose of this bill is to protect children from harm by reforming the Child Protective Services (CPS) system.

Your Committee received testimony in support of this measure from representatives of the Department of Human Services (DHS), the Hawaii State Commission on the Status of Women, the Office of Information Practices, Hawaii Medical Association, the Kapiolani Medical Center for Women and Children, and a concerned citizen. The Hawaii State Foster Parents Association submitted testimony in support of the intent of this measure. The Judiciary and a concerned individual also submitted comments on this measure.

This measure will strengthen the CPS system and improve the chances that children will be protected while their families receive the services necessary to improve their home environment.

Your Committee believes that child safety is the priority for the CPS system and that all efforts should be made to improve the communication between DHS, families, professionals, social and public agencies, and the community.

Your Committee believes, however, that given tight fiscal constraints, DHS should have reasonable reporting requirements so that it may make every effort to be open, accessible and communicative. Your Committee also notes that due to the significant privacy interest that individuals have in their medical records, safeguards should be in place to insure that such information remain confidential subsequent to its disclosure to the foster child's foster parents or principle treating physician. Further, your Committee finds that the establishment of a review panel within DHS to discuss cases of serious abuse should be required, however, the appointment of the review panel should remain flexible enough to allow the panel to consist of members with significant and relevant information concerning the child.

After careful consideration, your Committee has amended this measure by:

- (1) Requiring that each child placed in foster care shall be covered by an established comprehensive health care plan meeting the requirements of DHS;
- (2) Requiring that each child placed in foster care be provided with evidence of the child's coverage under a comprehensive health care plan;
- (3) Clarifying that any records or information disclosed to a foster child's foster parents or the foster child's principle treating physician, or any information shared by one physician with another pursuant to the provisions of this bill shall remain confidential;
- (4) Requiring DHS to make every reasonable effort to be open, accessible and communicative to affected persons;
- (5) Lowering the time frame that a child has been without the family home when making a determination to set the case for a show cause hearing under section 587-72(c) from eighteen to twelve months;
- (6) Clarifying that the review panel established within DHS may include but not be limited to the emergency room physician treating the child, the child protective services social worker assigned to the case, the guardian ad litem for the child, if one has been appointed by the court pursuant to section 587-34, and the child's multidisciplinary team; and
- (7) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2987, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 2987, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representatives Cachola, Hiraki, Menor and Yoshinaga.

**SCRep. 983-98      Judiciary on S.B. No. 3002**

The purpose of this bill is to enable the Department of Human Services to impose civil or administrative penalties against health maintenance organizations under contract with the department for specific violations of law or contract.

The Department of Human Services supported this bill and testified that passing this bill will bring Hawaii into compliance with the federal Balanced Budget Act of 1997. Failure to comply with federal mandates may jeopardize the receipt of fifty percent federal matching funds for the QUEST program.

However, your Committee believes that this bill should apply to "health plans" rather than "health maintenance organizations" because the former is a more general, and thus more inclusive, term. Accordingly, this bill has been amended by replacing "health maintenance organization" with "health plan" and by making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3002, S.D. 2, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 3002, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Cachola, Herkes, Hiraki, Yoshinaga, Pendleton and Thielen.

**SCRep. 984-98      Judiciary on S.B. No. 2123**

The purpose of this bill is to change the compensation of the Boards of Registration from a set rate established by statute, to a schedule established by rule by the Chief Election Officer.

The Office of Elections submitted testimony in support of this measure.

Your Committee notes that this bill would enable the Office of Elections to deal with the changing compensation requirements to the various Boards of Registration more efficiently and effectively and ensure fair remuneration to the Boards.

Your Committee has amended this bill by changing the effective date to July 1, 1998.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2123, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2123, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hiraki, Jones, Menor, Yoshinaga and Thielen.

**SCRep. 985-98      Judiciary on S.B. No. 720**

The purpose of this measure is to authorize the Administrative Director of the Courts to assess and collect a \$15 fee for the costs of processing an arrestee's request for an administrative revocation of driver's license hearing.

Your Committee received testimony from the State Judiciary. Testimony in opposition of this measure was received from a concerned individual.

Your Committee finds that the assessment of a \$15 fee would offset considerable processing costs to the Judiciary including costs for photocopying documents, the issuance of subpoenas, conditional permits and relicensing forms, interpreter services, law enforcement mileage fees and other similar costs. Your Committee is concerned, however, that the imposition of an additional nonrefundable fee on an arrestee may have a chilling effect on his or her decision to exercise the right to request an administrative hearing.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the fees collected pursuant to this new section are intended to cover the cost of photocopying documents, the issuance of subpoenas, conditional permits and relicensing forms, interpreter services, law enforcement mileage fees and other similar costs;
- (2) Authorizing the director to waive the fee in the case of indigent arrestees upon an appropriate inquiry into the financial circumstances of the person seeking the waiver and an affidavit or certificate signed by such person demonstrating the person's financial inability to pay the fee; and
- (3) Requiring that if the administrative revocation is reversed after an administrative hearing, any fees collected from the arrestee requesting such a hearing shall be returned to the arrestee.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 720, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 720, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Herkes, Hiraki, Yoshinaga, Pendleton and Thielen.

**SCRep. 986-98      Judiciary on S.B. No. 719**

The purpose of this bill is to increase judicial salaries for those judges and justices who serve more than one term of office.

The Judiciary, Hawaii State Bar Association, and several concerned individuals testified in support of an immediate judicial pay raise but in opposition to the provision limiting raises to judges and justices who have been retained for a second term. The United Public Workers and American Judicature Society supported the intent of this bill.

Your Committee has amended this bill by:

- (1) Changing the salary amounts and the effective dates of the salary increases;
- (2) Removing the requirement that a judge or justice be serving a second term of office before receiving a second salary increase;
- (3) Deleting that part of section five appropriating funds for fiscal year 1997-1998; and
- (4) Amending the effective date of this bill to July 1, 1998.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 719, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 719, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Herkes, Hiraki, Yoshinaga, Pendleton and Thielen.

**SCRep. 987-98      Judiciary and Public Safety and Military Affairs on S.B. No. 3206**

The purpose of this bill is to establish an assessment and drug treatment program for inmates, parolees, and other persons released from correctional facilities.

The Department of Public Safety, the City and County of Honolulu Police Department, and members of the public testified in support of the bill. The Office of the Public Defender and the Department of Budget and Finance commented on the measure.

Your Committees believe that a program for the treatment of inmate substance abusers is an important step in achieving the overall goals of the criminal justice system to rehabilitate the inmate and to potentially end the recidivism caused when untreated drug or alcohol offenders are released from our prisons. However, your Committees are also aware that in these times of fiscal constraints, when the State and counties are desperately looking for ways to reduce costs, a mandatory program of drug assessment and treatment may overwhelm our already overburdened State agencies.

With this in mind, your Committees have amended this bill by requesting the Legislative Auditor to conduct a study of the costs and economic impact of a mandatory substance abuse assessment and treatment program for substance abusing repeat offenders incarcerated in the State's correctional system. The study will:

- (1) Identify and provide a critical evaluation of the performance of current systems in place for drug or alcohol treatment of inmates in the State's prison system;
- (2) Provide a breakdown of actual costs associated with programs currently in place; and
- (3) Provide and estimate of the costs and amounts of alternative funding which may be expected for the implementation and yearly operating expenses for a mandatory and statewide repeat offender substance abuse treatment program

As affirmed by the records of votes of the members of your Committees on Judiciary and Public Safety and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3206, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3206, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Case, Herkes, Menor, Yoshinaga and Thielen.

**SCRep. 988-98      Labor and Public Employment on S.B. No. 2667**

The purpose of this bill is to expand the scope of section 846-43, Hawaii Revised Statutes (HRS), to allow not only the Department of Education (DOE), but private schools and the individual counties to conduct criminal history checks for positions which necessitate close proximity to children. This bill also exempts persons employed continuously on a salaried basis by the counties prior to June 1, 1998.

The Attorney General (AG) testified in support of the intent of this bill and recommended passage. The AG's recommendation was based on the City and County (C&C) of Honolulu's agreement to assist the Hawaii Criminal Justice Data Center by providing operational support for the record checks.

Others testifying in support of this bill included the Honolulu Police Department of the C&C of Honolulu, the Department of Parks and Recreation of the C&C of Hawaii, Philpotts & Associates, Inc., the Mayor's Downtown/Chinatown Task Force, and a private individual.

The Hawaii Civil Rights Commission (HCRC) testified in favor of the bill, with reservations, and suggested amendments that would avoid conferring broader authority on the counties than that given to the State. HCRC testified that the counties conduct a greater range of activities than DOE, and that the term "close proximity" could be subject to varying interpretations. Thus the bill might be interpreted to allow the counties to conduct history checks in more contexts than originally intended.

Upon consideration, your Committee has amended this bill by:

- (1) Deleting references to the employees of the counties in section 846-43, HRS;
- (2) Adding a new section entitled "Employees of the counties; criminal history checks" to be inserted into Chapter 846, HRS, and including within that section provisions that:
  - (a) Specify which county programs fall within the law's scope; and
  - (b) Narrowly define the term "close proximity";
 and
- (3) Making technical, nonsubstantive changes for purposes of clarity, style, and consistency.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2667, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2667, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Case, Takumi and Yamane.

**SCRep. 989-98 Education on S.B. No. 2210**

The purpose of this bill is to require the Department of Education (DOE) to allocate funds to each school on a weighted pupil basis.

The Hawaii Congress of Parents, Teachers and Students, and the Hawaii Business Roundtable submitted testimony in support of the bill. The Hawaii State Teachers Association testified in support of the intent of the bill. While raising concerns, DOE supported the intent of the bill. The Department of Budget and Finance raised concerns about the bill.

The bill has been amended by deleting its substance and replacing it with the substance of H.B. No. 2563, which was heard by your Committee on February 10, 1998. Using the substance of H.B. No. 2563 as a base, the bill was further revised by:

- (1) Adding that DOE is required to display information about general funds budgeted for each school, along with projected school enrollment; and
- (2) Making technical, nonsubstantive revisions for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2210, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2210, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Arakaki, Morihara, Takamine and Yonamine.

**SCRep. 990-98 Human Services and Housing on S.B. No. 2877**

The purpose of this bill is to repeal the requirement that the Department of Health provide personal care services to certain physically disabled medical assistance recipients who have no one to care for their daily needs.

The Department of Human Services submitted testimony in support of this measure.

Your Committee finds that Section 346-64, Hawaii Revised Statutes, is presently unnecessary as it deals with personal care services which are no longer separately funded from the home and community-based Medicaid waiver programs under Chapter 346D, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2877, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kahikina and Stegmaier.

**SCRep. 991-98 Human Services and Housing on S.B. No. 2624**

The purpose of this bill is to re-enact the Hale Kokua pilot project as a permanent program under the Housing and Community Development Corporation of Hawaii.

Specifically, this bill re-establishes a homeless assistance program that authorizes the payment of a state grant and a monthly rental supplement to property owners who set aside rental units to persons classified as employed but homeless, for up to five years.

The Hawaii Housing Authority testified in support of this bill. Your Committee received no testimony in opposition to this bill.

Your Committee has amended this bill by replacing the language of S.B. 2624 S.D. 2, with the language of H.B. 2435 H.D. 1 and deleting the reference to real property tax waivers and zoning or building code exemptions.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2624, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2624, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 992-98 Human Services and Housing on S.B. No. 3220**

The purpose of this bill is to increase the conveyance tax from ten to twenty cents per \$100 and to redistribute the dedicated funding as follows: thirty-two and one-half per cent to the Rental Housing Trust Fund ("RHTF"), twelve and one-half per cent to the Natural Area Reserve Fund ("NARF"), twenty per cent to the Bureau of Conveyances Equipment Modernization Special Fund until December 31, 2000, and ten per cent to the Housing and Community Development Corporation for the purpose of providing homeless assistance.



Your Committee received testimony in support of this bill from the Governor's Special Assistant for Housing, Department of Land and Natural Resources, Honolulu City and County Department of Housing and Community Development, Hawaii Catholic Conference, Institute for Human Services, Legal Aid Society, Hale Kipa, Catholic Charities, Safe Haven, American Association of Retired Persons, and Kaiser Permanente. Opposing testimony was received from the Tax Foundation of Hawaii and the Land Use Research Foundation. The Hawaii Audubon Society testified in opposition to any decrease in the portion of the conveyance tax which goes to the Natural Area Reserve Fund. The Department of Taxation offered comments.

Perhaps one of the most critical social issues facing Hawaii is the plight of its homeless population. The 1997 consolidated plan for the housing needs for Hawaii finds that there are more than 100,000 people who are either homeless on our streets or part of the hidden homeless. Statistics maintained by the Hawaii Housing Authority show that more than 12,000 homeless people are served by State programs every year; the number will undoubtedly continue to increase. More than 10,000 households are on public housing waiting lists, and the waiting list for tenant-based federal section 8 and State rent supplement subsidies are closed to new applications.

The lack of funding for the homeless will only exacerbate this situation. In FY 1998, the Administration will restrict approximately \$1 million from its homeless services providers. Several shelters, including the Institute for Human Services and Safe Haven, will likely be forced to close their doors when these restrictions are made. Such closures will result in hundreds of individuals, including families consisting of young children, being literally thrown into our streets. This is unacceptable.

Accordingly, your Committee has amended this bill to retain the present conveyance tax rate, but to temporarily reallocate dedicated funding from the RHTF to homeless assistance. Specifically, your Committee has amended this bill by:

1. Retaining the present conveyance tax rate of ten cents per \$100;
2. Suspending the present dedication of twenty-five percent of the conveyance tax to the RHTF for FY 1998;
3. Retaining the present dedication of twenty-five per cent of the conveyance tax to the NARF;
4. Dedicating seventy-five per cent of the conveyance tax to the general fund;
5. Appropriating \$1.5 million for homeless shelter services in FY 1998; and
6. Placing a sunset date of June 30, 1999, at which time the dedication of the conveyance tax will revert to its present form (i.e., twenty-five per cent to the RHTF, twenty-five per cent to the NARF, and fifty per cent to the general fund).

Your Committee made these amendments in light of several practical considerations. First, an increase in the conveyance tax is not conducive to our economy. Second, an appropriation of additional general funds is unlikely. Finally, this Committee must look within its own budget and prioritize its own programs and services.

Notwithstanding the temporary loss of conveyance tax proceeds, your Committee is buttressed by the fact that the RHTF will receive \$20 million in funding over the next two years through the capital improvements budget. Hopefully, the instant proposal will afford homeless shelter providers some time to find other supplemental means of funding.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3220, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3220, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 993-98 Human Services and Housing on S.B. No. 2746**

The purpose of this bill is to increase revenue to human service programs by establishing an income tax refund check-off system for a donation to a newly created Hawaii Human Services Fund.

The Department of Taxation submitted testimony in opposition to this measure. The Department of Human Services submitted comments.

Your Committee believes that this measure would increase services to those most in need without decreasing revenues to the general fund. However, your Committee finds that "human services" is too broad and may deter taxpayers from donating to the fund.

Therefore, your Committee has amended this measure by:

- (1) Clarifying that the beneficiaries of the special fund will be children and youth services;
- (2) Creating the Hawaii Children and Youth Services Special Fund to pay for children and youth services;
- (3) Effectuating the check-off system beginning with the 1999 taxable year; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2746, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2746, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative McDermott.

**SCRep. 994-98 Labor and Public Employment on S.B. No. 2816**

The purpose of this bill is to revise the composition of the Board of Trustees of the Hawaii Public Employees' Health Fund (Health Fund) by:

- (1) Deleting the clergy representative; and
- (2) Adding a retired member from either:
  - (a) The Employees' Retirement System;
  - (b) The County Pension System; or
  - (c) The Police, Firefighters, or Bandsmen Pension System of the State or County.

The Board of the Health Fund, HGEA/AFSCME Local 152, and the Hawaii State Teachers Association testified in support of this measure. The Department of Budget and Finance opposed this measure. The Department of Human Resources Development commented on this measure.

Your Committee finds that there is no clear rationale to include a member of the clergy on the Board of the Health Fund. This measure adds a retiree in lieu of the clergy representative to address the needs of the Health Fund's 30,000 retired enrollees.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2816, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Takumi and Yamane.

**SCRep. 995-98 Human Services and Housing on S.B. No. 2991**

The purpose of this bill is to design and demonstrate a child and family service system that builds on the strengths of children, families, and their community by establishing a three-year, community-based social service integration pilot program to be known as the Waipahu Performance Partnership.

Communities in Schools-HI Project of the YMCA submitted testimony in support of this measure. The Department of Human Services (DHS), the Office of Youth Services (OYS), and the Department of Health submitted testimony in support of the intent of this measure. The Department of Labor and Industrial Relations, the Department of Education, and one individual submitted testimony in opposition to this measure.

Your Committee finds that interdepartmental decategorization can achieve a more effective and efficient outcome than if each federal, state, or community agency narrowly focused on only its part of the problem.

The testimony indicated that the Waipahu community was not involved with drafting this measure and does not know what the intent of this bill is. Your Committee acknowledges that the Waipahu community may be ready to accept the responsibilities outlined in this measure, but believes that this bill should allow any community within the State to work together to create performance partnerships.

Your Committee believes that this measure, as received, will provide more flexible, individualized child and family services that will better serve the community, but finds a need to focus on integrated youth services instead. Furthermore, your Committee believes that OYS is the more appropriate agency to administer the project.

After careful consideration, your Committee has amended this measure by:

- (1) Creating the Performance Partnership for Youth Project (Partnership);
- (2) Establishing the Partnership within OYS to coordinate this effort;
- (3) Changing the definition of "partnership" to mean OYS, federal, state, and community youth-serving agencies;
- (4) Deleting the definitions of "department" and "office without walls";
- (5) Also including in the Partnership:
  - (A) The Office of the Governor;
  - (B) County youth agencies;
  - (C) The Center for Youth Development and Policy Research; and

- (D) Other appropriate agencies and service providers;
- (6) Deleting all references to the Waipahu community;
- (7) Repealing this Act on June 30, 2003;
- (8) Setting criteria for selection to enable communities to participate in the Partnership;
- (9) Enabling the Office of the Governor and the Judiciary to also transfer funds into, and expend funds from, decategorized service accounts; and
- (10) Making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2991, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2991, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Santiago, Stegmaier and McDermott.

**SCRep. 996-98      Education on S.B. No. 2509**

The purpose of this bill is to:

- (1) Repeal the sunset date of the Hawaii Teachers Standards Board (Board);
- (2) Repeal the sunset date of the law requiring the certification of teachers who are exempt from licensing and credentialing requirements; and
- (3) Require staggered terms for new members of the Board.

The Board and the Hawaii State Teachers Association submitted testimony in strong support of this bill.

Your Committee finds that the work of crafting rigorous standards for beginning teachers is critical to the future success of Hawaii's public schools, and accordingly your Committee supports the Board's request to continue its existence beyond the year 2000. As previously noted in Standing Committee Report No. 68-98 issued by this Committee in connection with House Bill No. 2974, H.D. 1, your Committee notes that the Board has not yet completed its process of developing standards for licensing and credentialing. Therefore, your Committee believes that the Board's work should be reviewed prior to making the Board a permanent agency.

Your Committee has amended the bill by replacing the provisions of the bill with the language found in House Bill 2974, H.D. 1. Specifically, the bill has been amended to:

- (1) Extend, rather than repeal, the sunset date of the Board;
- (2) Extend, rather than repeal, the sunset date of the law requiring the certification of teachers who are exempt from licensing and credentialing requirements; and
- (3) Permit, rather than require, the staggering of Board members' terms.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2509, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2509, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Arakaki, Morihara, Takamine and Yonamine.

**SCRep. 997-98      Education on S.B. No. 3177**

The purpose of this bill is to require the Department of Education to adopt a full-cost, expenditure reporting system for all lower education programs, including student transportation and school physical plant operations and maintenance, but excluding public libraries, adult education, and the A+ program.

Furthermore, the bill requires the department to provide the Legislature with expenditure reports on a quarterly basis.

Your Committee received testimony in support of this measure from the Hawaii State Teachers Association.

Testimony in opposition to the measure was received from the Department of Education.

Your Committee agrees with the Department of Education that quarterly financial reporting is impractical and that the Department's consolidated annual financial reports already provide much of the data addressed in the measure. Your Committee, however, is concerned that the reports are readily available only within the Department.

Accordingly, your Committee has amended this bill by deleting its contents entirely and replacing it with the substance of H.B. No. 3177, H.D. 1.

The measure, as amended, requires the results of the Department's educational status report to be made available to the public through print, broadcast, and electronic media.

Furthermore, the amended measure allows reports to be done whenever feasible and appropriate cross-sectionally by school and longitudinally by student cohort rather than school-by-school. Also, this bill eliminates reference to assessment models developed by the Commission on Performance Standards.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3177, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Morita, Arakaki, Morihara, Takamine and Yonamine.

**SCRep. 998-98          Education on S.B. No. 2211**

The purpose of this bill is to require the Department of Education to provide the Legislature with an implementation plan for the study and instruction of technology in education for all grades of public schools before the Regular Session of 1999.

Your Committee received testimony supporting the intent of this bill from the Department of Business, Economic Development, and Tourism, the Hawaii State Teachers Association, and the Hawaii State Parents, Teachers and Students Association. Your Committee received testimony from the Department of Education indicating that another study was not necessary at this time because they were already implementing plans for the study and instruction of technology in education for all grades of public schools.

Your Committee has amended this bill by deleting its contents and inserting the contents of H.B. No. 2561, H.D. 2, which proposes amendments to the State Constitution to:

- (1) Require the Governor to nominate and, by and with the advice and consent of the House of Representatives, appoint the voting members of the Board of Education;
- (2) Require the composition of the Board of Education to be established by law, except for the nonvoting student member selected by the Hawaii State Student Council; and
- (3) Require the voting membership of the Board of Education to represent geographic areas of the State.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2211, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2211, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Arakaki, Morihara, Takamine and Yonamine.  
(Representatives Halford, McDermott and Moses voted no.)

**SCRep. 999-98          Public Safety and Military Affairs and Judiciary on S.B. No. 2249**

The purpose of this bill is to allow the Director of Public Safety to charge fees for medical, dental, or health care services when the request for such is initiated by the inmates.

Your Committees find that inmate healthcare costs \$8 million a year. This includes non-emergency medical, dental, or mental health service or treatment. While your Committees are mindful that inmates' access to these services should not be hindered or denied, we believe that a co-payment fee for elective services will deter requests for unnecessary treatment.

Testimony in support of this bill was received from the Department of Public Safety.

Upon further consideration, your Committees have amended this bill by:

- (1) Eliminating reference to optometric services which are covered under medical services;
- (2) Including inmate requested mental health services to the list of eligible co-payment fees;
- (3) Establishing a maximum co-payment fee of \$3.00 per treatment; and,
- (4) Requiring a summary report of funds collected following the first of implementation.

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2249, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2249, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Herkes, Hiraki, Menor, Kawanakoa, Pendleton and Thielen.

**SCRep. 1000-98 Water and Land Use on S.B. No. 2652**

The purpose of this bill is to allow counties to impose district assessments to provide safety or security services.

Testimony in support of this bill was submitted by the Office of Waikiki Development of the City and County of Honolulu, Bank of Hawaii, Philpotts & Associates, Inc., and Waikiki Improvement Association. Your Committee finds that there is strong and unified support for this bill and agrees with the intent of this measure.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2652, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Kanoho, Morihara and Yoshinaga.

**SCRep. 1001-98 Water and Land Use on S.B. No. 2148**

The purpose of this bill is to permit a lessee of public land to exercise a one-time lease extension.

The Board of Land and Natural Resources, the Department of Hawaiian Home Lands, and the Department of Transportation submitted testimony in opposition to this measure citing, among other reasons, the adverse effect this measure would have on the departments' ability to effectively manage the lands under their respective control.

A representative of the Association of Apartment Owners at Country Club Apartments submitted testimony in support of an alternate version of this measure which would allow the Board of Land and Natural Resources, with respect to leases which:

1. Are leases of public lands;
2. Have a remaining term of less than twenty years; and
3. Are being subleased as residential apartments in a condominium property regime created in connection with a conversion from a hotel use prior to the imposition of requirements to fund replacement reserves, to negotiate an extension of the lease not to exceed twenty-five years to make it economically feasible for the sublessees to reasonably fund replacement reserves required by law or to undertake capital expenditures, major maintenance and rehabilitation projects, or, by mutual agreement with the lessee, to cancel the unexpired term of the lease and negotiate a new lease.

Upon further consideration, your Committee has amended this bill by replacing its contents with language consistent with the suggested language submitted by the representative of the Association of Apartment Owners at Country Club Apartments as noted herein above.

As affirmed by the record of votes of the members of your Committee on Water and Land Use that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2148, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2148, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Kanoho, Morihara and Yoshinaga.

**SCRep. 1002-98 Labor and Public Employment and Consumer Protection and Commerce on S.B. No. 2326**

The purpose of this bill, as received, is to:

- (1) Clarify the administration of the Hawaii Employers' Mutual Insurance Company, Inc. (HEMIC);
- (2) Establish an oversight council to monitor HEMIC's activity; and
- (3) Exempt HEMIC from assessments by the Hawaii Hurricane Relief Fund (HHRF) for the first \$25,000,000 of annual written premiums.

The Legislative Information Services of Hawaii and HEMIC testified in support of this bill, but suggested that it be amended to specify that the at-large member appointed by the Governor to the oversight council be an owner, officer, or employee of a HEMIC policyholder.

HHRF testified that while it supports the intent of HEMIC, it would like HEMIC's exemption from the assessment of the HHRF to be removed. The Department of Commerce and Consumer Affairs, however, testified that the loss in revenues from HEMIC's exemption from assessments up to a "cap" of \$25,000,000 can be absorbed by HHRF without forcing a significant increase in the hurricane base premium to make up the difference.

Upon consideration, your Committees have amended this bill by deleting the substance and inserting the language reflected in H.B. No. 2647, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before these Committees and the Committee on Finance. In addition, your Committees have amended this bill by:

- (1) Altering the composition of the oversight council to include a member of the House of Representatives and a member of the Senate, to be appointed by the Speaker of the House and the Senate President respectively;
- (2) Specifying that the at-large member appointed by the Governor to the oversight council be an owner, officer or employee of a HEMIC policyholder;
- (3) Changing the end-date of HEMIC's exemption from HHRF assessments to December 31, 2008;
- (4) Changing the date that HEMIC can begin participating in the Hawaii Property and Liability Insurance Guaranty Association (HIGA) to January 1, 2009; and
- (5) Specifying that HEMIC will be able to participate in HIGA beginning January 1, 2009, only if HEMIC meets the surplus requirements applicable to all other domestic insurers.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2326, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2326, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Saiki, Tom, Yoshinaga and Pendleton.

**SCRep. 1003-98 Labor and Public Employment and Consumer Protection and Commerce on S.B. No. 2768**

The purpose of this bill is to ensure orderly, consistent, and predictable billing practices by workers' compensation service providers by:

- (1) Requiring these service providers to bill the employer within two years of services rendered or forfeit any rights to receive payments; and
- (2) Prohibiting these service providers from charging injured employees directly for treatments relating to the industrial injury.

The Hawaii State Teachers Association and the Department of Consumer Protection and Commerce testified in support of this measure. The Department of Labor and Industrial Relations and ILWU Local 142 testified in support of the intent of this measure and submitted proposed amendments.

Your Committees find that the provision of timely and effective medical care is an essential component of the workers' compensation system. Orderly, consistent, and predictable billing practices are vital for employees, employers, and health care providers.

Your Committees have amended this bill by deleting its substance and inserting the substance of a similar bill, H.B. No. 2645, H.D. 1, which was passed out of a joint hearing of the Committees on Labor and Public Employment and Consumer Protection and Commerce earlier this session.

Because of irregularities and inconsistencies in the billing and collection process for workers' compensation claims, many of Hawaii's more competent health care providers refuse to treat injured workers. To address these concerns, this measure as amended, imposes a clear-cut two-year period of limitation for notification and billing from the date services were rendered. Failure to seek payment during the two-year period will result in forfeiture of the right to payment.

As affirmed by the records of votes of the members of your Committees on Labor and Public Employment and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2768, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Garcia, Hiraki, Saiki, Tom, Yoshinaga, Pendleton and Whalen.

**SCRep. 1004-98 Tourism on S.B. No. 2970**

The purpose of this bill is to clarify jurisdiction over noise control at the convention center and repeal the expiration of the Convention Center Authority.

Your Committee received testimony as follows:

1. Department of Health, Convention Center Authority, Polynesian Adventure Tours, in support; and
2. Waikiki Area Action Association, Neighbors of the Ala Wai, offering comment.

Your Committee finds that the convention center plays a key role in the State's plans for stimulating economic activity and excessive restrictions on activities at the center may deter organizations from selecting Hawaii as the site for their meetings and conventions. A clear set of rules to address noise concerns will improve the compatibility of the convention center with the surrounding neighborhood and enable the center to fulfill its primary function.

The issue of noise at the convention center points to the need for the retention of the Department of Health Noise Program, in order to allow events at the convention center and statewide that would otherwise be prohibited by existing regulations.

Your Committee revised the bill by:

1. Removing the provisions relating to the inclusion of a definition of excessive noise in the adoption of rules;
2. Providing in Section 342F-20, Hawaii Revised Statutes, that Section 206X-\_\_ and any rules adopted in accordance with that section shall prevail over any other law or ordinance, and that for any other noise-related issue, any county may adopt ordinances and rules as provided in Section 46-17, and any conflict between state and county law will be resolved as provided in Section 46-17;
3. Removing the provisions amending Section 342F-30.5;
4. Removing the provisions repealing the expiration of the Convention Center Authority; and
5. Making technical, non-substantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2970, S.D. 1, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 2970, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Ito.

**SCRep. 1005-98 Consumer Protection and Commerce on S.B. No. 2607**

The purpose of this bill is to create two panels within the Public Utilities Commission (PUC), of which one shall have jurisdiction over public telecommunications issues and the other jurisdiction over all other public utility matters.

Supportive testimony was submitted by the Political Action Committee of the I.B.E.W. Local Union 1357. Testimony in opposition to the measure was received from the Department of Business, Economic Development, and Tourism, the PUC, the Department of Commerce and Consumer Affairs, the Hawaii Transportation Association, AT&T, GTE Hawaiian Telephone Company, and Hawaiian Electric Company, Inc. and its subsidiaries.

Your Committee finds that with the rapid growth of the telecommunications industry and technological advances in the field, the PUC will be faced with an increasing number of and increasingly complex telecommunications issues. The establishment of two separate panels within the PUC, one of which would be solely dedicated to telecommunications issues may facilitate the PUC's ability to deal with these issues in a more timely and informed manner. While your Committee acknowledges the concerns that were raised with respect to cost and administrative issues associated with the creation of an additional panel, your Committee believes that this measure merits further discussion, and is therefore recommending its passage to the Committee on Finance.

Your Committee has amended this bill by:

- (1) Removing language appropriating general fund moneys for the fiscal year 1999-2000, and leaving unspecified the fiscal year for which funds are appropriated;
- (2) Revising its effective date to July 1, 2010; and
- (3) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2607, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2607, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes and Pendleton.

**SCRep. 1006-98 Consumer Protection and Commerce on S.B. No. 2633**

The purpose of this bill is to protect consumers who lease land by requiring that all appraisals used in determining the amount of rent or other recompense for the land be in conformance to the Uniform Standards of Professional Appraisal Practice (USPAP).

The Hawaii Council of Associations of Apartment Owners, the Hawaii Financial Services Association, Inc., Resolution, Inc., and numerous individuals testified in support of the bill. The Housing Finance and Development Corporation and Kamehameha Schools Bishop Estate testified in opposition to the bill.

It is your Committee's understanding that the Auditor's Office is preparing a report on the probable effects of requiring licensure or certification of all real estate appraisers and conformance with USPAP in all appraisals as a result of H.C.R. No. 165, Regular Session of 1997.

The Legislature's request for the Auditor to complete this report resulted from the Legislature's concern for leasehold land issues, its potential impact on the residents and businesses of Hawaii, and the potential impact on the economic stability of Hawaii. Your Committee expects the Auditor's report will be completed in April of this year.

It is the intention of your Committee that this bill establish a means of ensuring that appraisals used to determine the fair market value of leasehold land are fair and unbiased; however, consideration should be given to the findings of the Auditor.

Therefore, your Committee has amended this bill by extending the effective date to July 1, 2010, to allow consideration of the Auditor's findings and to facilitate further discussion of the bill.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2633, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2633, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes and Pendleton.

**SCRep. 1007-98 Consumer Protection and Commerce on S.B. No. 3143**

The purpose of this bill is to require the Public Utilities Commission (PUC) to consider the recommendation of the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (Consumer Advocate) in reaching a determination on a public utility's application to construct a new forty-six kilovolt or greater electric transmission system, either above or below the ground. The bill further requires that the Consumer Advocate's recommendation be based upon factors set forth in section 269-27.6 (a), Hawaii Revised Statutes.

Supportive testimony was received from several individuals. Na Leo Pohai and the Sierra Club, Hawai'i Chapter, testified in support of the bill's intent, and an amendment was proposed by the latter. Kauai Electric and the Hawaiian Electric Company and its subsidiaries testified that they did not object to the bill. The PUC and the Consumer Advocate testified in opposition to the bill on the basis that it was not necessary. Comments were submitted by the Life of the Land.

This measure expressly requires the PUC to take into consideration the Consumer Advocate's recommendation when reviewing an application for construction of an electric transmission system. The bill also expressly requires the Consumer Advocate to consider in its recommendation specific factors relating to the benefits and costs of undergrounding an electric transmission system and any governmental public policy requiring underground placement. By requiring that the PUC consider input from the Consumer Advocate on specific factors not solely related to financial costs, the views of consumers will be more fully represented on the issue of the placement of electrical lines in our communities.

Your Committee has amended this bill by making technical, nonsubstantive amendments for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3143, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3143, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Herkes and Pendleton.

**SCRep. 1008-98 Consumer Protection and Commerce on S.B. No. 2037**

The purpose of this bill is to ensure that emergency health care will be provided to patients with emergency medical conditions by requiring that emergency health services be covered by accident and sickness insurance contracts, mutual benefit societies, and health maintenance organizations without regard to preauthorization requirements.

The Department of Commerce and Consumer Affairs, the Executive Office on Aging, and the Hawaii Medical Association testified in support of the bill. The Legal Aid Society of Hawaii and Kaiser Permanente supported the bill and submitted amendments for consideration. The Department of Health did not support the bill.

Your Committee finds that any delay in treatment in an emergency medical situation could result in serious or fatal consequences to the patient. This measure prohibits the denial of coverage for emergency medical services by insurers due to the patient's or emergency care provider's lack of obtaining preauthorization.

In addition, this measure provides for the education of members of health plans covering emergency medical services on their included coverage for emergency medical services, the use of emergency services such as the 911 system, any cost-sharing provisions for emergency services, and the procedures for obtaining emergency and other medical services.

Kaiser Permanente submitted proposed amendments, which adhered to their Principles for Emergency Care as established by Kaiser Permanente and the American College of Emergency Physicians to: ensure greater continuity of care for patients; protect the patient from incurring unexpected costs from the provision of uncovered emergency services; ensure appropriate access to emergency medical services; and reduce administrative costs from coverage disputes between hospitals, emergency physicians, and health plans. Your Committee has adopted the proposed amendments by Kaiser Permanente, which clarify:

- (1) The definitions of "emergency medical condition", "emergency services", and "stabilize";



- (2) That coverage be provided for emergency services regardless of whether the member or emergency provider obtained prior authorization rather than prohibiting preauthorization;
- (3) The circumstances upon which emergency services are to be covered for treatment received at both participating and nonparticipating emergency departments;
- (4) The procedures an emergency department must follow to receive reimbursement from the health plan for services medically necessary as well as services not medically necessary; and
- (5) The circumstances upon which the health plan may impose different cost-sharing on the member.

In addition, technical, nonsubstantive amendments were made to this bill to correct drafting errors and for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2037, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2037, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Garcia, Saiki, Tom and Yoshinaga.

**SCRep. 1009-98 Higher Education on S.B. No. 3239**

The purpose of this bill is to authorize the President of the University of Hawaii (University) to transfer functions and personnel of the University without the Governor's approval.

The Department of Budget and Finance testified in support of the intent of the bill. In support of the purpose and intent of the bill, the University recommended an amendment.

Your Committee agrees with the amendment proposed by the University and has amended the bill by amending Section 37-74, Hawaii Revised Statutes (HRS), rather than Section 26-11, HRS. In doing so, your Committee deleted the reference to consultation with affected collective bargaining units, as Section 89-9, HRS, requires the University to consult with the union whenever its personnel are affected by a transfer or change in function.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3239, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3239, S.D. 1, H.D. 1, and be referred to the Committee on Labor and Public Employment.

Signed by all members of the Committee except Representatives Stegmaier, Yonamine and McDermott.

**SCRep. 1010-98 Labor and Public Employment on S.B. No. 2213**

The purpose of this bill, as received, is to:

- (1) Provide for the development and implementation of a three-year transformation of the State's budgeting, accounting, and procurement systems into an integrated system; and
- (2) Provide a temporary exemption from the civil service laws for state and county grants, subsidies, and purchase of services contracts.

The United Public Workers, AFSCME, Local 646, AFL-CIO testified in support of this bill.

The Department of Human Resources Development (DHRD) testified that while it appreciates the intent of this bill, it has concerns about delaying the resolution of the Hawaii Supreme Court's recent decision in Konno v. County of Hawaii, 85 Haw. 61 (1997) until June 30, 2001. In addition, DHRD testified that the membership of the proposed committees does not take into consideration the possibility of changes in department heads, and that failure to do so could cause even greater delays.

The Attorney General testified that while it agrees that efforts must be made to enable state and county governments to forge stronger public-private partnerships and to be more efficient, this bill is not the best way to achieve these objectives.

The Department of Budget and Finance testified in opposition to this bill and urged this Committee to support the House version of the bill, H.B. No. 2566, H.D. 2, instead. The Department of Accounting and General Services testified that, while it supports the concepts in this bill that pertain to performance-based budgeting, it, too, prefers H.B. 2566, H.D. 2.

Your Committee notes that this bill is indeed similar to H.B. No. 2566, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

Your Committee also notes that H.B. No. 3199, H.D. 2, which was passed out of this Committee and the Committee on Finance earlier this session, is related in that it deals with decreasing the costs of government by allowing state or county officials to contract with private entities to provide goods, services, or construction to be financed by public funds when they can be provided at lower costs and in equivalent or better quality than that which could be provided by a government entity.

After much consideration, your Committee has amended this bill by deleting the substance and inserting language reflected in both H.B. No. 2566, H.D. 2, and H.B. No. 3199, H.D. 2. Your Committee has also amended the language contained in the "purpose" sections of this bills (Sections One, Two, and Seven), by emphasizing that the overall intent is to promote government efficiency and cost-effectiveness.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2213, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2213, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Takumi and Yamane.

**SCRep. 1011-98 Labor and Public Employment on S.B. No. 560**

The purpose of this bill is to prohibit employment discrimination against persons receiving public assistance or general assistance.

For purposes of the public hearing, your Committee circulated a proposed H.D. 1 version that deletes the provisions of the bill and inserts new language to disallow compensation for work-related mental or physical injuries that are the result of lawful personnel management actions made in good faith.

The Department of Human Resources Development, the Attorney General, the Chamber of Commerce of Hawaii, Liberty House, the National Federation of Independent Business, the Hawaii Hotel Association, and the Hawaii Insurers Council testified in support of this measure. The Hawaii State Teachers Association supported the intent of this measure. The Department of Civil Service for the County of Hawaii commented on this measure.

Your Committee notes that this bill is similar to H.B. No. 2648, H.D. 2, which was passed out of the House of Representatives earlier this session after public hearings before this Committee and the Committee on Finance.

As amended, this measure addresses the Hawaii Supreme Court's (Court) decision in *Mitchell v. State of Hawaii*, 85 Haw. 250 (1997). In *Mitchell*, the Court held that Mitchell's stress-related mental injury was compensable under Hawaii's Workers' Compensation law, even though that injury resulted from a disciplinary measure taken against Mitchell because of her work-related misconduct. The Court reasoned that the statute expressly provided for compensation of injuries arising out of and in the course of employment, and that Mitchell's injury was compensable in the absence of express statutory authority to the contrary.

Your Committee further amended this bill by making technical, nonsubstantive revisions.

As affirmed by the record of votes of the members of your Committee on Labor and Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 560, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 560, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Case, Takumi and Yamane.

**SCRep. 1012-98 Consumer Protection and Commerce on S.B. No. 2934**

The purpose of this bill is to disallow workers' compensation benefits for a mental or physical injury resulting from disciplinary or other personnel action taken in good faith by the employer.

Supportive testimony was submitted by the State Attorney General, the Department of Human Resources Development, the National Federation of Independent Business Hawaii, and the Healthcare Association of Hawaii. Testimony in support of the bill's intent and proposing amendments was received from the United Food and Commercial Workers Union, Local 480, AFL-CIO, and the Hawaii State Teachers Association. Comments on the measure were submitted by the Chamber of Commerce of Hawaii. Testimony in opposition to the bill was submitted by the Hawaii Insurers Council, the I.L.W.U. Local 142, and the United Public Workers AFSCME, LOCAL 646, AFL-CIO.

This measure was introduced in response to the Hawaii Supreme Court's decision in *Mitchell v. State of Hawaii*, 85 Haw. 250 (1997), in which the court held that an employee who was disciplined for administering corporal punishment in violation of a work rule, and who as a result suffered stress-related injuries, sustained a compensable injury because she was acting in the course of her employment at the time of the alleged misconduct.

Your Committee acknowledges that the State has a valid interest in denying compensation to employees who, like Mitchell, sustain stress-related injuries as a result of being disciplined for alleged misconduct. Therefore, the employee who is terminated for insubordination or falsifying time cards, and consequently, suffers from depression should not be able to qualify for workers' compensation for injuries related to the employee's depression.

However, your Committee finds that this measure, as received, is worded too broadly and goes too far in attempting to address the situation presented by the Mitchell case. If the Legislature's intent is to deny an employee benefits for stress-related injuries resulting from disciplinary action taken against the employee for misconduct, the current language of this bill is overly broad when it includes injuries resulting from "other personnel action taken in good faith by the employer" as noncompensable injuries.

The language "other personnel action taken in good faith by the employer" includes any action taken in relation to a person's employment, both favorable and unfavorable. Adoption of this language could have the effect of prohibiting

claims for legitimate work-related injuries even where the employee has not broken any rules of the workplace nor engaged in unlawful conduct.

Therefore, in order to avoid effecting unfair and inequitable results that would deny benefits for legitimate work-related injuries, and in an effort to reach a more balanced approach between the House and Senate positions on this issue, your Committee has amended this bill to:

- (1) Delete the phrase "or other personnel action taken in good faith by the employer"; and
- (2) Provide that compensation shall not be allowed for an employee's physical or mental injury if the injury is caused by stress that is a direct consequence of disciplinary action taken in response to the employee's misconduct.

Your Committee recognizes that the title of this bill may be problematic. However, it is the intent of your Committee that this bill serve as a vehicle to facilitate further discussion of the issues raised in the Mitchell case.

As affirmed by the record of votes of the members of your Committee on Consumer Protection and Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2934, S.D. 1, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 2934, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Herkes and Pendleton.

**SCRep. 1013-98 Energy and Environmental Protection on S.B. No. 2092**

The purpose of this bill is to encourage energy conservation by:

- (1) Extending the energy conservation income tax credit for the installation of wind energy systems, solar energy systems, heat pumps, and ice storage systems from January 1, 1999, to July 1, 2003;
- (2) Eliminating design requirements for solar energy systems as they relate to multi-residential buildings; and
- (3) Establishing a four-year task force to study alternative methods to support increased energy efficiency and sustainability.

Testifying in support of this measure were the Hawaiian Electric Company and its subsidiary utilities, Hawaii Electric Light Company and Maui Electric Company, the Sierra Club, Hawaii Chapter, PowerLight Hawaii, the Hawaii Renewable Energy Alliance, the Building Industry Association of Hawaii, the Hawaii Solar Energy Association, and Inter-Island Solar Supply. The Department of Business, Economic Development, and Tourism supported an Administration's compromise package which reduces the tax credit for solar energy systems from thirty-five percent to twenty percent. The Tax Foundation of Hawaii offered comments, and the Department of Taxation opposed this bill.

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2092, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Goodenow, Garcia and Tarnas.

**SCRep. 1014-98 Energy and Environmental Protection on S.B. No. 2850**

The purpose of this bill is to provide a range of penalties for operators and users of illegal open dumps by:

- (1) Adding a jail term of not more than thirty days for these operators and users;
- (2) Allowing the courts to revoke any professional license or any applicable certificate obtained from the Public Utilities Commission; and
- (3) Redefining "open dump".

The Department of Health, the City and County of Honolulu Department of Public Works, and the County of Maui Department of Public Works and Waste Management testified in support of this measure. The Hilltop Equestrian Centre opposed this bill.

Upon further consideration, your Committee has amended this bill by:

- (1) Deleting its substance and inserting the substance of H.B. No. 2847, H.D. 2, which passed out of the House of Representatives earlier this session after public hearings before this Committee as well as the Committee on Judiciary; and
- (2) Deleting the amendments to the definition of "open dump."

As affirmed by the record of votes of the members of your Committee on Energy and Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2850, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2850, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Goodenow, Garcia and Tarnas.